

Delaware Sustainable Energy Utility Oversight Board Meeting (Executive Session)
Senate Majority Caucus Room, Legislative Hall, Dover, DE
10:00 a.m., May 13, 2010

***The following are minutes of the Executive Session held during the Oversight Board Meeting on May 13, 2010.*

ATTENDANCE

Oversight Board Members

Senator Harris B. McDowell, III, Co-Chair
Secretary Collin O'Mara, Department of Natural Resources and Environmental Control
Sharron Cirillo, Public Accountant
Representative Pamela Thornburg
Dr. Charles Wagner, Manufacturer of Energy Devices
Roger Jones, Nature Conservancy
Nnamdi Chukwuocha, Kingwood Community Center
Michael Sheehy for Judge Arthur Padmore, Delaware Public Advocate
Charlie Smisson, State Energy Coordinator (ex officio)

SEU Contract Administrator

Ralph Nigro

Board Staff

Sean Finnigan, Delaware State Senate
Frank Murphy, SEU Attorney

Scribes

Cara Lampton, Delaware Energy Office
Peter Olmsted, Center for Energy and Environmental Policy

II. Executive Session

Senator McDowell requested that the Oversight Board enter Executive Session to discuss items of proprietary nature. SEU attorney Frank Murphy cited the relevant FOIA section providing for executive session. Members of the public were asked to excuse themselves.

a. Contract Administrator update on Sustainable Communities Negotiations

At the January 2, 2010 meeting, the SEU Oversight Board requested that the CA initiate discussions with the two qualifying firms, Pepco Energy Services and Standard Energy. The CA requested that the firms deliver a detailed proposal and scope of work (RFP) to outline the plans for implementation and describe needed assistance from the SEU. In March 2010, the CA met with Standard Energy, at which point they indicated a request for \$140,000 in order to conduct market research and design. The CA indicated that Pepco did not fully respond to the RFP, but that they completed an assessment of three retail spaces owned by Puccini Group. The CA indicated that investment grade audits would be the next step for these proposed projects.

The CA also mentioned that he and Sean Finnigan have been approached by Flexera regarding Sustainable Communities, and about being considered as a prequalified ESCO through the performance-contracting program for the purpose of engaging in a project with the Seaford School District. Flexera has asked the SEU Oversight Board whether it would endorse these projects and contracts. Board members and SEU attorney, Frank Murphy, expressed concern. Mr. Murphy advised that the SEU communicate with Seaford School District to discuss this issue. The CA mentioned that prequalified ESCOs are eligible to hire local contractors, and that this could potentially provide an appropriate opportunity for Flexera to engage. Secretary O'Mara suggested that issuing a RFI could offer an opportunity to aggregate project potential and reduce overall costs. Board members were not inclined to agree to Flexera's request, but the SEU would open lines of communication with the District.

The CA and Board also discussed the challenges presented by the Sustainable Communities Program negotiations, and how this process has consumed valuable time and effort. The CA requested guidance from the Board as to the direction of the Sustainable Communities Program. Considering the challenges the Sustainable Communities Program has presented and that it has not proceeded as originally envisioned, Board members agreed to suspend the program for the time being in order to free up resources for alternative SEU programs.

b. Status of Contract Administrator Negotiations

The Board was updated on the status of the contract proposal submitted by the CA in regards to the 2010 contract year. Negotiations are ongoing and expected to be completed in the near future. The Board will be provided a draft of the contract proposal for their review in preparation of considering the proposal at the Board meeting in June. Board members and the CA expressed the challenges presented by insufficient staff resources, and agreed to discuss these issues in further detail at the June Board meeting.

c. Strategy Session re Professional Services Contracts

Mr. Murphy informed the Board that there is also a need to secure full-time legal counsel considering that the legal demands of SEU activities are significant. Mr. Murphy suggested that the SEU should engage in an RFP process to select appropriate legal counsel. Board members agreed and are in support of expediting this process.

d. Strategy Session re SEP money and SEU priorities

Secretary O'Mara updated the Board on the allocation of SEP funding and emphasized the need for these programs to work in concert with SEU initiatives. The Board spent considerable time discussing the various programs available and strategized on how to increase the effectiveness and participation rates of program offerings. In particular, the Board discussed the need to balance direct incentives with innovative financing.

e. Strategy Session re Market Research

The CA updated the Board on the market research efforts, and distributed PowerPoint slides to members that summarize the research findings. As part of the original charge of the SEU, the CA explained that this research comprises a comprehensive study of Delaware's market characteristics, and that the dissemination of this research could prove valuable for overall marketing strategies and transparency of the SEU's efforts.

f. Strategy Session re Procurement Agreements

The Board was updated on the status of the Dover Sun Park project. Contract agreements have been successfully executed and it is expected that there will be a groundbreaking event in June.

Board concluded Executive Session at 11:30 a.m and returned to open meeting.