

NYSERDA 33rd Governance Committee Meeting
April 26, 2022
Clean Copy of Transcript

John Campagna:

Recording is live.

Shere Abbott:

Are we ready? All good?

Arturo Garcia-Costas:

Yes.

Shere Abbott:

Okay. I call this meeting to order and note the presence of a quorum, a notice of the meeting was forwarded to Committee members on April 13, 2022, and to the press on April 14, 2022, a revised agenda was forwarded on April 21, 2022. This meeting is being conducted by video conference. The authority will post a video and a transcript of this meeting on the web. We'll confirm that we have a quorum. I would ask each of the Committee members to introduce themselves. I will start. I am Shere Abbot, Chair of the Governance Committee.

Chair Kauffman:

I'm Richard Kauffman Chair, the Authority.

Vice Chair Bell:

Chuck Bell member of Committee and Vice Chair of the Authority.

Pam Poisson:

Pam Poisson, NYSERDA's CFO.

Arturo Garcia-Costas:

Arturo Garcia-Costas, member of the Committee and the Board.

Arturo Garcia-Costas:

Sorry, go ahead.

Shere Abbott:

All right. Thank you. The first item on the agenda is the approval of the minutes of the 32nd Committee meeting that was held on June 21, 2021. Are there any comments on the minutes Hearing? may motion approving the minutes?

Arturo Garcia-Costas:

So moved.

Chair Kauffman:

So moved. Second one

Shere Abbott:

Favor opposed.

Members of the Committee:

Aye. Aye.

Shere Abbott:

The minutes are approved. The next item on the agenda is proposed revisions to the Authority's. Conflict of interest policy, Peter Costello, the authorities general counsel will present this item, Peter,

Peter Costello:

Thank you, Chair Abbott and good morning members of the Committee, Public Authorities Law Section 28, 24 sub 7, stipulates that the Governance Committee of a State Public Authority is to examine ethical and conflict of interest issues. The Authority's Budget Office Guidance recommends that the conflict of interest policy and should be reviewed annually by the members of the Governance Committee to ensure that it meets the organization's needs and addresses any revisions in the law. As such the members are being asked to recommend that the full Board adopt a resolution approving amendments to the Employee Conflict of Interest Policy, which I'll refer to as the COI policy, a copy of which was included within the materials. The purpose of the COI policy is to one, make authority employees aware of their ethics obligations set forth in Public Officers Law, Section 74, titled the Code of Ethics, Public Officers Law, Section 73, relating to gifts outside activities and post-employment restrictions, Civil Service Law 107 relating to engaging in political activities as well as the joint commission on public ethics known as Jacob's Regulations and Jacob's Advisory Opinions.

Two, to encourage disclosure and discussion of any circumstances that may constitute a conflict of interest and three prevent conflicts of interest and promote trust between State Officers and employees, the COI policy supplements, an employee's tri-annual ethics training obligation and is required to be reviewed by each employee on an annual basis and certified as such in proposing these amendments. I confirmed that no changes were made to the ethics laws, regulations and advisory opinion would affect the COI policy. I also reviewed the Authority's Personnel Handbook and removed any duplicative information or inconsistencies contained in the COI policy. Additionally, Colleen Dawson, the Authority's Ethics Officer reviewed the COI policies of the New York Public, the New York Power Authority, Empire State Development, the Environmental Facilities Corporation, and the Long Island Power Authority and determine that the COI policy is an alignment with those policies. The proposed amendments to the COI policy, resolve inconsistency with the Authority's Personnel Handbook, streamline the presentation of information, remove updated information, remove references to the code of conduct and otherwise consist of non-substantive minister, or clarifying changes with that. I'm happy to answer your questions.

Chair Kauffman:

So some of the things you've deleted you're saying are picked up elsewhere?

Peter Costello:

Yes. specifically with respect to the anti-harassment and beverages, et cetera, those are incorporated in our personnel handbook. We're also doing a review of the Internal Control Manual, which does incorporate rep to the Personnel Handbook and we determine it's more properly covered in the internal control.

Chair Kauffman:

So the two, the, the post-employment restrictions, I haven't gone through word by word of what's been changed. Is it anything substantive?

Peter Costello:

No.

Colleen Dawson:

It's literally a copy and past I just moved it.

Chair Kauffman:

I just moved it. Okay.

Colleen Dawson:

Yes.

Chair Kauffman:

Seems awfully similar. Okay. and similarly the, the use of NYSERDA's assets that, that is also

Peter Costello:

In the personnel book, the internal tool. Okay. It made sense to strip out the, because our Personal Handbook is much more comprehensive than those two issues

Chair Kauffman:

Mm-Hmm <affirmative>

Peter Costello:

So it didn't make sense to call this a code of conduct, the two selected issues with that.

Chair Kauffman:

So it's basically has tighten the focus on the conflict of interest

Peter Costello:

Yes, exactly. Okay. Correct.

Shere Abbott:

Any other questions?

Peter Costello:

Any other question?

John Williams:

None here.

Shere Abbott:

Okay. May I have a motion recommending approval of the amendments to the Conflict of Interest Policy?

Chair Kauffman:

So moved.

Shere Abbott:

Second?

Chair Kauffman:

Second.

Shere Abbott:

All in favor.

Members of the Committee:

Aye. Aye.

Shere Abbott:

Opposed.

Jay Koh:

Aye.

Shere Abbott:

The amendments of the, to the Conflict of Interest Policy are recommended for approval. Thank you, Peter.

Peter Costello:

You're welcome.

Shere Abbott:

Okay. The next agenda item concerns a resolution to convene in private session. Section 108 of the Public Officers Law authorizes the members to convene in private session in order to review a matter made confidential by State Law section 2,800 of the Public Authorities Law requires that the authority conduct an Annual Confidential Board Member Performance Evaluation. Since the law states that the Annual Board Member Performance Evaluation is confidential, it may be discussed by the members and private session. May I have a motion to

convene in private session for the purpose of reviewing the, an Annual Confidential Board Member Performance Evaluation Report.

Chair Kauffman:

So moved.

Shere Abbott:

Second?

Chair Kauffman:

Second.

Shere Abbott:

All in favor.

Members of the Committee:

Aye. Aye. Aye.

Shere Abbott:

Opposed. The resolution is approved. The members will now enter into private session. I would like everyone, but the members to leave the room during that time, the webcast will remain up upon our return. We'll reconvene the meeting.

Pam Poisson:

We're all set Shere, if you'd like to reconvene.

Shere Abbott:

All right. Very much. This meeting is reconvened in open session. No action was taken during the private session. The Committee is asked to recommend approval of the annual board member performance evaluation report, which was reviewed during the private session. Is there any discussion? Hearing none. May I have a motion recommending approval of the annual confidential board member performance evaluation report?

Vice Chair Bell:

So moved.

Shere Abbott:

All in favor.

Members of the Committee:

Aye. Aye. Aye.

Shere Abbott:

Opposed the Annual Confidential Board Member Performance Evaluation report is recommended for approval. The next item on the agenda is a report on the recent changes to the Open Meetings Law. Peter Costello, will you discuss this item?

Peter Costello:

Thank you. Chair Abbot. Recent changes were enacted as part of New York's budget signed into law for this to allow some limited flexibility in Board member attendance at meetings as a threshold matter. I do want to note that the law does not change or curtail the basic requirements of Open Meetings Law as existed prior to the pandemic in early 2020. Rather the change is meant as an expansion in limited circumstances of the use of remote attendance by one or more members and locations, not physically open to the public. Specifically, the law required that the minimum number of members required to meet quorum will still be required to be at a physical location where one or one or more sorry, one or more locations at which the public is allowed to attend. However, so long as that physical quorum required is meant the law will allow additional members to attend the meeting virtually for extraordinary circumstances.

The law includes a non-exhaustive list of what may be deemed as extraordinary circumstances, but otherwise leaves the definition up to the Authority. The list includes disability, illness, caregiving responsibilities, or any other significant or unexpected factor, which precludes the member's physical presence at the meeting. The law requires a few procedural steps before taking effect for any particular Board. First, we must draft the written Board policy, which staff is working on now. Then we must have a public hearing to consider the policy and following the public, hearing the adoption of formal resolution of approval policy, the law requires the Committee on open government to issue a report by January 1, 2024, assessing its effect, making any further recommendations. Otherwise if there's no legislative action, the law will be deemed expired on July 1, 2024. In terms of next steps to consider, I would suggest staff continue to review the law, any guidance that's being published best practices from our sister entities, et cetera. And then draft has suggested written policy for consideration by the Governance Committee. We will then need to conduct a public hearing and we are still analyzing what form that public hearing could take. And then following the public, hearing the policy presented to the full Board for a vote on its adoption, I'm happy to take any questions.

Shere Abbott:

Any questions for Peter? None? Okay. Thank you, Peter. The last item is other business. Are there any other matters? The members wish to discuss? Hearing none. May I have a motion to adjourn?

Vice Chair Bell:

So moved.

Shere Abbott:

Second?

Arturo Garacia-Costas:

Second.

Shere Abbott:

All in favor.

Members of the Committee:

Aye. Aye.

Shere Abbott:

Opposed the meeting is adjourned.