

MINUTES OF THE TWENTIETH MEETING OF THE
GOVERNANCE COMMITTEE
HELD ON JANUARY 26, 2016

Pursuant to notice dated January 15, 2016, the twentieth (20th) meeting of the Governance Committee of the NEW YORK STATE ENERGY RESEARCH AND DEVELOPMENT AUTHORITY (“Authority”) was convened at 10:00 a.m. on Tuesday, January 26, 2016, at the office of the New York State Dormitory Authority, One Penn Plaza, New York, New York, and the Authority’s Board Room at 17 Columbia Circle, Albany, New York.

The following Members of the Committee were present:

Sherburne Abbott, Chair

Richard Kauffman

Chuck Bell

Jay Koh

Mark Willis

Also present were John Rhodes, President and CEO; David Margalit, Chief Operating Officer; Janet Joseph, Vice President for Technology and Strategic Planning; Jeffrey J. Pitkin, Treasurer; Noah Shaw, Esq., General Counsel and Secretary; Laura Rowe, Esq., Assistant Counsel and Secretary to the Governance Committee; and various other staff of the Authority.

Ms. Abbott called the meeting to order and noted the presence of a quorum.

The first item on the agenda concerned the approval of the minutes of the nineteenth (19th) meeting of the Governance Committee held on June 1, 2015.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote, the minutes of the nineteenth (19th) meeting of the Governance Committee were approved.

Ms. Abbott indicated that the next item on the agenda was a report from the Authority's General Counsel and Secretary, Noah Shaw, on an amendment to the Authority's By-laws.

Mr. Shaw stated that the proposed amendment would modify Section 4 of Article VI of the By-laws and would provide the Director of Contract Management with the authority to execute any contract encumbering Authority funds up to \$100,000, and to execute low variability, low complexity contracts that are issued as offer letters or similar straightforward standard agreements, when the amounts are based upon a formulaic calculation dictated by program, in an amount up to \$1,000,000. Examples of such low complexity contracts include NY-Sun and the Existing Facilities Program incentives, where the amount of the incentive is based upon a formulaic calculation related to the size of the installation, and Technical Review of Incentives, where the technical review work is issued through individual project Task Work Orders that include standard NYSERDA terms and conditions.

Mr. Shaw advised that under the Authority's current By-laws, the President and CEO has the power to execute all contracts in the name of and on behalf of the Authority. In addition, the Chief Operating Officer, the Vice President for Energy Services, the Vice President for Technology and Strategic Planning, the Treasurer, and the Secretary have the power to execute contracts encumbering Authority funds up to \$1,000,000. Lastly, the Director of Contract Management has the power to execute contracts encumbering Authority funds up to \$25,000. Since these levels were set in the By-laws, the sheer number of low-dollar contracts between \$25,000 and \$100,000 has increased significantly. Increasing the threshold for the Director of Contract Management will allow the Treasurer or other approving Officers more time to focus on more complex, value-added activities, while not significantly adding risk to the Authority. In order to mitigate any increase in risk, the Authority will update its Operations and Procedures to require that the Director of Contract Management provide the Treasurer with a weekly report listing all of the actions approved by the Director of Contract Management between \$100,000 and \$1,000,000.

Mr. Shaw further advised that other state entities have taken similar steps to allow individuals at the Director and Manager levels to approve low-risk contracts at amounts both similar to and higher than what is currently being proposed.

Mr. Koh and Mr. Willis raised questions concerning any impact these changes would have on the audit process. Mr. Pitkin and Mr. Mitchell, Director of Internal Audit, responded that they would not and that any specific impacts would be brought to the Audit and Finance Committee. Mr. Mitchell further advised that he is supportive of the proposed amendment including the requirement that the Director of Contract Management provide the Treasure with a weekly report listing all of the actions approved by the Director of Contract Management between \$100,000 and \$1,000,000.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Committee Members present, the following resolution was adopted.

Resolution No. 31

RESOLVED, that the Governance Committee recommends that the Members of the Authority adopt a resolution in substantially the same form as the resolution submitted to the Committee, adopting and approving the amendment to the Authority's By-laws, providing the Director of Contract Management with the authority to execute contracts encumbering Authority funds up to \$100,000, and to execute contracts encumbering low variability, low complexity contracts issued as offer letters or similar straightforward standard agreements the amounts of which are based upon a formulaic calculation dictated by program up to \$1,000,000.

Ms. Abbott indicated that the next item on the agenda concerned an updated conflict of interest policy for Authority Board Members and employees and would be reported on by Noah Shaw, General Counsel and Secretary.

Mr. Shaw advised that NYSERDA currently has a Code of Conduct that is applicable to both Authority employees and Board Members. Additionally, in 2013 NYSERDA adopted a Conflict of Interest Policy applicable to employees. Both of these documents contain information, rules and guidance contained in Public Officers Law, its associated Regulations, as well as specific NYSERDA Policy. In August 2015, the Authorities Budget Office issued a bulletin containing recommended governance practices for public authorities, in which that office specifically addressed authorities' conflict of interest policies and provided a model to be considered for adoption. Based upon the ABO guidance and model policy, management of the Authority now proposes to separate the conflict of interest policies for Board Members, on one hand, and

employees on the other hand. The specific conflict of interest and code of conduct rules applicable to Board Members and employees have not substantively changed; rather, the change here is to ensure that the Authority's policies conform more closely to the structure and form recommended by ABO.

Whereafter, upon motion duly made and seconded, and by unanimous voice vote of the Committee Members present, the following resolution was adopted.

Resolution No. 32

RESOLVED, that the Governance Committee recommends that the Members of the Authority adopt a resolution in substantially the same form as the resolution submitted to the Committee, approving the revised conflict of interest policy for Board Members and revised conflict of interest policy and code of conduct for Authority employees.

Ms. Abbott stated that the last agenda item concerned other business. There being no further business, upon motion duly made and seconded, and by unanimous voice vote of the Committee Members, the meeting was adjourned.

Respectfully submitted,

A handwritten signature in cursive script that reads "Laura B. Rowe".

Laura B. Rowe
Secretary to the Committee



NOTICE OF MEETING AND AGENDA

January 15, 2016

TO THE MEMBERS OF THE GOVERNANCE COMMITTEE:

PLEASE TAKE NOTICE that the twentieth (20th) meeting of the GOVERNANCE COMMITTEE of the New York State Energy Research and Development Authority (“Authority”) will be held at the office of the New York State Dormitory Authority (“DASNY”), One Penn Plaza, 52nd Floor, New York, New York, and in the Authority’s Albany Office at 17 Columbia Circle, Albany, New York, on Tuesday, January 26, 2016, commencing at 10:00 a.m., for the following purposes:

1. To consider the Minutes of the 19th meeting held on June 1, 2015.
2. To consider and act upon a resolution recommending approval of an amendment to the Authority’s By-laws
3. To consider and act upon a resolution recommending approval of an updated conflict of interest policy for Authority board members and employees.
4. To transact such other business as may properly come before the meeting.

Members of the public may attend the meeting at either of the above locations. In order to expedite the entry procedures established by the building management, any members of the public planning to attend the meeting at DASNY’s office should notify DASNY’s receptionist at 212-273-5000, 24 hours in advance of the meeting, and must be prepared to show valid photo identification upon arrival at One Penn Plaza.

Video conferencing will be used at both locations and the Authority will be posting a video of the meeting to the web within two business days of the meeting. The video will be posted at <http://www.nyserdera.ny.gov/About/Board-Governance/Board-and-Committee-Meetings>.

Laura B. Rowe
Secretary to the Committee

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