

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE EXECUTIVE SESSION
OF
THE FINANCE, ADMINISTRATION AND OPERATIONS
COMMITTEE
May 16, 2012**

On May 16, 2012 at approximately 9:40 a.m., the Finance Administration Operations Committee (FAO) met in Executive Session to discuss matters related to personnel, collective bargaining and litigation pursuant to Section 2(c)(1), 2(c)(5), 2(c)(11) and other applicable provisions of the Open Meetings Act.

Directors Present:

Committee Chair Mark Peterson

Director D'Arcy

Director David Gonzalez

Staff present for all or portions of the meeting:

Kristi Lafleur

Michael Stone

David Goldberg

Joanne Fehn

Directors discussed the workers' compensation settlements.

General Counsel reviewed the details for each of the three proposed settlements referenced on the FAO Committee Agenda including the written settlement recommendations from outside counsel. He invited the Directors to ask questions. No questions were asked. General Counsel indicated that the full Board will have an opportunity to review the settlements during the Executive Session of the Board meeting before voting on final approval in open session. As a result, the recommended settlement amounts will not appear on the publicly posted agenda for the upcoming Board Meeting.

Directors discussed the amended identification ("DiBenedetto") of real estate parcels for Tollway land acquisition.

General Counsel introduced staff to provide a general reference to the amended identification of real estate parcels for land acquisition related to the I-294/I-57 project.

Staff indicated that the Board could anticipate additional resolutions regarding the ongoing process of identification of real estate needed for the I-294-/I-57 interchange project. At this point, approximately thirty real estate parcels are being added to the identification list. Of the added parcels, three require relocation of the property owners. Directors asked about the amount spent to date on land acquisitions for this project. Staff responded that out of the \$14.3 million land acquisition budget, approximately \$193,917.27 has been spent.

Directors discussed the approval of final just compensation.

General Counsel indicated that the land acquisition team is working on a procedure to address the 1500 or more parcels that will need to be approved over the course of the Move Illinois capital program for purchase. The procedure will include a process for notifying Directors of property ownership to facilitate identification of conflicts of interest, as well as, guiding financial principles for approving land acquisition settlements. General Counsel expects to present that process along with the land acquisition department, to the Directors at the June Board meeting.

General Counsel confirmed that none of the Committee members present identified conflicts of interest related to the owner(s) of parcel N-4C-10-010. As a result, staff proceeded with discussion of the final just compensation for the referenced parcel. Staff indicated that the Tollway was not successful in its negotiation with the owner of parcel N-4C-10-010 before the contract letting date of May 7, 2012. A quick take hearing was scheduled in court for May 8, 2012. The judge would have been asked to consider appraised property values ranging from \$2.81 per square foot (Tollway-obtained appraisal) to \$20.82 per square foot (owner-obtained appraisal). However, prior to the scheduled quick take hearing, the Tollway and owner negotiated the amount of \$450,000 as a full and final settlement amount for the property subject to Tollway Board approval

Directors asked how the current owner acquired the parcel. Staff responded that the owner purchased it at an auction for \$150,000 in 2009.

Directors asked how the Court generally views conflicting appraisals. Staff indicated that generally the court chooses a number in the middle of the two appraisals.

Directors asked what accounted for the difference in the appraisal amounts. Staff indicated that the Tollway appraisers took into account the fact that the parcel was undeveloped, spanned less than one acre and was purchased for \$150,000 in 2009. Staff added that the Tollway does not allow its hired appraiser to talk directly with the negotiator handling the case to avoid conflicts of interest. However, a lawyer representing a property owner could have direct contact with an owner's appraiser and influence his/her appraisal resulting in a higher appraisal amount.

Directors asked whether the public would have access to the settlement amounts and whether sharing previous settlement amounts could affect future land acquisition negotiations. Staff indicated that the Tollway has not received a Freedom of Information Act (FOIA) request from a property owner or lawyer for this type of information over the last year. General Counsel responded that the settlement amount would be posted publicly but the appraisal amount would not. He did not know whether the appraisal amount was subject to a FOIA request.

General Counsel indicated that it might be useful to have outside counsel present at an upcoming Board Meeting/Executive Session to discuss general matters related to land acquisition, eminent domain and the quick-take process. The Directors agreed.

At approximately 10:25 a.m., Committee Chair Peterson called for a motion to re-enter the public session of the Finance Administration Operations Committee Meeting. Director D'Arcy made the motion; seconded by Director Gonzalez. The motion was approved unanimously.

Minutes taken by: _____ /s/ on original

Tranece Artis
Board Secretary
The Illinois State Toll Highway Authority

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE EXECUTIVE SESSION
OF
THE BOARD OF DIRECTORS
May 24, 2012

On May 24, 2012 at approximately 10:25 a.m., the Board met in Executive Session to discuss matters related to personnel, collective bargaining and litigation pursuant to Section 2(c)(1), (2) and (11) and other applicable provisions of the Open Meetings Act.

Present:

Chair Paula Wolff
Director Terry D'Arcy
Director James Sweeney
Director Carl Towns
Director David Gonzalez
Director Mark Peterson
Director Jeff Redick
Director Tom Weisner

Staff present all or portions of the meeting:

Kristi Lafleur
Michael Stone
Shana Whitehead
Joe Kambich
David Goldberg
Joanne Fehn

Directors discussed the TRMMP contract negotiation and possible litigation.

Staff indicated that contract negotiations with ETCC for Toll Revenue Management and Maintenance Program services were completed the night before the Board Meeting. The Executive Director sent a letter to ETCC requesting compensation for service issues experienced over the last year in the amount of \$500,000. One example of service issues was the repeated charging of I-Pass customers' credit cards for the same tolls earlier this year. ETCC accommodated this request by incorporating free support and service in the contract extension scheduled for approval at the May Board meeting.

Also, staff recently received notification that an existing investor in ETCC has taken a controlling interest in the company. General Counsel indicated that this discussion is being held in Executive Session because the letter of demand sent by the Executive Director to ETCC and the written communication received from ETCC regarding the change in ownership point to potential legal action if certain written assurances are not provided by the vendor.

Directors asked whether approval of the contract extension would signal that sufficient assurances had been made by the vendor. General Counsel responded that, even with the Board's approval of the contract extension, the Tollway reserves the right to delay execution of the contract until the written assurances are received from the vendor.

Staff indicated that the vendor has made \$350,000 in concessions to date.

Directors discussed workers' compensation litigation settlements.

General Counsel indicated that each of the three workers' compensation matters referenced on the May 2012 Board Agenda were negotiated by outside counsel and recommended for settlement. He noted that each of the negotiated settlements were below the expected range of potential litigation exposure. Directors did not have questions on the three settlements.

Directors discussed land acquisition matter.

General Counsel indicated that the land acquisition team is working on a process to address the 1500 or more parcels that will need to be approved over the course of the Move Illinois Capital Program. The procedure will include a process for notifying Directors of property ownership to facilitate identification of conflicts of interest, as well as guiding financial principles for approving land acquisition settlements. General Counsel expects that Land Acquisition will present that process to the Directors at the June Board meeting.

Staff indicated the Tollway was not successful in its negotiation with the owner of parcel N-4C-10-010; the breakdown was over price. Tollway filed condemnation action pursuant to the Eminent Domain Act. Due to contract letting date of May 7, 2012, a Quick Take hearing was scheduled in court for May 8, 2012. The judge would have been asked to consider the Tollway's appraised property value as well as the Property Owner's appraised value with ranges from \$2.81 per square foot (Tollway obtained appraisal) to \$20.82 per square foot (owner obtained appraisal). However, prior to the scheduled quick take hearing, settlement negotiations ensued; the sum of \$450,000 was arrived at as the full and final settlement amount for the property. This settlement amount is approximately 47 percent higher than the Tollway obtained appraisal amount (\$350,000) and 48 percent lower than the owner obtained appraisal amount (\$854,000).

Directors asked about the timing of the Quick Take process. Staff responded that the Quick Take process would have taken approximately 3 weeks for this property.

Staff indicated that with the help of outside counsel, staff will provide more information next month on procedural guidelines for approving land acquisition and guiding financial principles for determining acceptable settlement amounts.

The Directors discussed personnel issues with the Executive Director.

The Executive Director discussed matters related to personnel and contract negotiation.

The Directors discussed personnel issues without the Executive Director.

Directors discussed personnel matters.

At approximately 11:20 a.m., Chair Wolff called for a motion to re-enter the public session of the Board Meeting. Director Peterson made the motion; seconded by Director Weisner. The motion was approved unanimously.

Minutes taken by: _____ /s/ on original

Tranece Artis
Board Secretary
The Illinois State Toll Highway Authority

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE EXECUTIVE SESSION
OF
THE BOARD OF DIRECTORS
June 28, 2012

On June 28, 2012 at approximately 11:20 a.m., the Board of Directors in Executive Session to discuss matters related to personnel and litigation pursuant to Section 2(c)(1), 2(c)(11) and other applicable provisions of the Open Meetings Act.

Directors Present:

Chair Wolff
Director Gonzalez
Director Peterson
Director Redick
Director Sweeney
Director Towns
Director Weisner

Staff present for all or portions of the meeting:

Kristi Lafleur
Michael Stone
David Goldberg
Joanne Fehn
Rocco Zuccherro
Paul Kovacs

Directors discussed the pending contract for Bond Counsel.

Staff asked the Directors whether they had questions about the recommended pool of bond counsel law firms. A Director asked why only ten of the eleven firms that met or exceeded the technical requirement were selected. Staff responded that the Request for Proposal specified that no more than 10 firms would be selected and that they believed that the number was the appropriate number for the pool. Therefore, the firm with the lowest qualifying score was excluded from the pool of firms.

A Director asked why the item summary indicated that 20 proposals were received but only 19 firms were listed. Staff acknowledged the discrepancy and committed to resolving the issue. Directors decided to defer discussion and vote on the bond counsel contract until the discrepancy was resolved.

Directors discussed the land acquisition approval process.

General Counsel introduced staff to provide a status update on the land acquisition approval process. Staff indicated that there is a process in place to inform Directors

about land ownership of specific parcels to facilitate Director's recusals prior to discussing or approving acquisition of those parcels. However, staff indicated that additional work is needed to solidify the overall land acquisition approval process. Staff committed to presenting a proposed process to the Board in July.

Staff provided the following overall status update on land acquisition for the following projects:

- For the I-294/I-57 project, only \$205,972 of the \$14.3 million land acquisition budget has been spent to date. Approximately 252 parcels need to be acquired by the Tollway. Twenty parcels are in condemnation.
- For the I-90/Route 47 project, \$5,311,789 of the approximately \$13 million budget has been spent. Eleven parcels need to be purchased. Three parcels are in condemnation.

Staff indicated that the Tollway submitted a Request for Proposal for Survey Upon Request and Land Acquisition Services for approximately \$2.4 million. Staff will provide an update on the status of that RFP at the next Board meeting.

Directors discussed a labor union petition.

Staff indicated that more positions have petitioned through ASCME to join the labor union, including: executive secretary, internal auditor, network administrator and information system auditor. Staff indicated that this is the third petition to join the labor union received by management over recent months.

Directors asked about the next steps in the process. Staff responded that this action is considered a clarification. As such, the Labor Board will review the job descriptions and the Tollway's original justifications for excluding these positions from the labor unions. The Labor Board will make a determination about whether the Tollway's justifications are a valid.

Directors asked whether there is an opportunity to appeal the Labor Board's decision if needed. General Counsel responded affirmatively and noted he would provide some details shortly.

Directors discussed an ongoing investigation and possible litigation against a DBE firm.

Staff indicated that the Diversity Team received an anonymous tip that Jalpa, a minority DBE subcontractor for prime contractor R. W. Dunteman Company, may not be actually performing the work. Jalpa allegedly subcontracted its work to Haltz.

The Inspector General indicated that Internal Audit visited three Jalpa work sites and found that the work was being done primarily by Haltz employees hired by Jalpa.

The Inspector General conducted a recorded interview with Fidel Perez, the President of Jalpa. Mr. Perez confirmed at that time that his company has done business with Haltz. Haltz is not a DBE contractor and was not in good standing with the State at the beginning of the Inspector General's investigation. Haltz is located in Addison, Illinois and is known to the law enforcement. Law enforcement has issues with Haltz because they allegedly loaned money to another company and allegedly subsequently took the company over. Mr. Perez indicated that Jalpa subcontracted with Haltz because they did not have the specialized machinery needed for the job and member of Local 150 was needed to operate the machinery. Mr. Perez indicated that he borrowed \$20,000 from the owners of Haltz to cover payroll costs but has been unable to re-pay the loan.

Staff sent a letter to the prime contractor, R. W. Dunteman Company, to request more information about its working relationship with Jalpa and its subcontracts. Staff received a letter from Jalpa's lawyers in response to the inquiry on the morning of the Board meeting with multiple attachments that had not yet been reviewed.

Directors asked about the financial size of the Tollway contract awarded to R. W. Dunteman Company and Jalpa's portion of that contract. Staff responded that Jalpa is subcontractor on three different Tollway contracts awarded to R. W. Dunteman Company for a combined amount of approximately \$42 million. Staff added that Jalpa's combined portion of those contracts is approximately \$2.9 million, or 7 % of the combined contract total.

Directors asked whether Jalpa and Haltz had done business with the Tollway previously. Staff responded that neither of these companies has worked with the Tollway previously.

Directors asked how Jalpa could have become a subcontractor for a Tollway project that requires specialized equipment that they did not possess. Staff

indicated that the prime contractors are responsible for confirming whether the subcontractors they select are equipped to do the job. Staff added that it is not uncommon for a subcontractor to subcontract specialized work. However, the prime contractor must report that information to the Tollway to determine how much of the work could be attributed to the DBE goal associated with that contract.

Staff indicated they would keep the Board informed about this matter as the investigation progresses.

At approximately 12:50 p.m., Committee Chair Peterson called for a motion to re-enter the public session of the Finance Administration Operations Committee Meeting. Director D'Arcy made the motion; seconded by Director Gonzalez. The motion was approved unanimously.

Minutes taken by: _____ /s/ on original

Tranece Artis
Board Secretary
The Illinois State Toll Highway Authority

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE EXECUTIVE SESSION
OF
THE FINANCE, ADMINISTRATION AND OPERATIONS
COMMITTEE
July 18, 2012**

On July 18, 2012 at approximately 9:00 a.m., the Finance Administration Operations Committee (FAO) met in Executive Session to discuss retention of counsel, the potential purchase of real property and pending litigation pursuant to Section 2(c)(1), 2(c)(5) and Section 2(c)(11) of the Open Meetings Act and other applicable provisions of the Open Meetings Act.

Directors Present:

Committee Chair Mark Peterson
Director Terry D’Arcy
Director David Gonzalez

Staff present for all or portions of the meeting:

Kristi Lafleur
Michael Stone
Rocco Zuccherro
Paul Kovacs
David Goldberg
Joanne Fehn

Directors discussed the bond counsel contract.

General Counsel reviewed the item summary for the bond counsel contract. He noted that last month the item summary showed that there were 20 “proposals received” but only 19 firms were listed. He indicated that the 20 “proposals received” included a letter submitted by a vendor, Edwards Wildman Palmer LLP, indicating that the firm did not intend to bid. The name of this firm has since been added to the list of “incomplete submissions – not evaluated” on the summary sheet for the Directors’ information.

Directors asked how staff will determine which firm within the bond counsel pool will be used when the Board authorizes a bond issue. General Counsel responded that the order of selection will be at the discretion of the Attorney General’s Office

but will likely be based on the technical scores each firm received during the procurement process. An exception to that order of selection could be made if a firm has specific experience with a particular matter that needs to be addressed.

Directors asked General Counsel how many of the law firms in the bond counsel pool he anticipated using over the five year term of the contract. General Counsel responded that the number of firms used will likely depend on the number of bond issuances authorized by the Board. He also indicated that the Chief of Finance would be better equipped to address other factors that could affect the number of firms used.

Directors asked whether the Board will need to approve the firm selected from within the bond counsel pool for each bond issuance. General Counsel indicated that he did not intend to seek further Board approval for his selection of bond counsel from the Board authorized pool of firms. However, he will inform the Board when the selections have been made.

Directors discussed the land acquisition settlement and proposed Tollway land acquisition process.

Staff indicated that the land acquisition settlement for Parcel TW-1C-10-102 presents the first negative equity scenario for the I-294/I-57 project. The property owners, Ronald L. Stanton and Dana Z. Stanton, own a single family home on the parcel and are current on their mortgage payments. The Tollway initially offered them the appraised value of \$80,000. However, the owners indicated that their mortgage payoff is \$101,559.11. Under the existing administrative policies, the Board needs to approve the revised settlement offer of \$101,559.11 because the mortgage payoff amount is more than 20% above the appraised value. The owners have chosen a new home with assistance from the Tollway relocation program and need to have their mortgage resolved before their closing date in early August.

Directors asked which bank holds this mortgage for the owners' home. Staff indicated Bank of America. Directors noted that, due to the economy, the Tollway should expect to see more of these negative equity scenarios.

[Discussion related to ongoing litigation and litigation strategy are redacted]

Directors indicated that they are prepared to vote on the Stanton settlement during open session but stressed the importance of developing a policy that would streamline the approval process for land acquisitions.

[Discussion related to ongoing litigation and litigation strategy are redacted]

Directors asked whether the Board would be informed about the land acquisitions approved by staff under the proposed policy. Staff responded that a list of each land acquisition could be generated monthly and a higher level overview could be generated quarterly demonstrating the actual amount spent versus the land acquisition budget.

[Discussion related to ongoing litigation and litigation strategy are redacted]

Directors asked whether staff could demonstrate that paying an amount higher than the appraised value for certain parcels is cost-effective because it minimizes increased project costs due to construction delays. Staff estimated that a one-year construction delay for the I-294/I-57 project could result in a minimum 5 percent project cost increase. **Staff committed to developing additional estimates that include the cost of litigation, delayed construction and other factors.**

Directors asked whether the Tollway offers the same relocation package to all parcel owners. Staff responded that the relocation packages are handled the same but the package content can differ based on a number of factors including: whether the affected party is a renter or homeowner; whether the party is moving to a more or less expensive home; and the amount of the homeowner's average mortgage or rental payment over the previous 12 months.

Directors asked whether the relocation program applies to commercial businesses, as well as, the residential property owners. Staff responded that commercial property owners are also considered for the relocation program.

[Discussion related to ongoing litigation and litigation strategy are redacted]

At approximately 9:55 a.m., Committee Chair Peterson called for a motion to re-enter the public session of the Finance Administration Operations Committee Meeting. Director D'Arcy made the motion; seconded by Director Gonzalez. The motion was approved unanimously.

Minutes taken by: _____ /s/ on original

Tranece Artis
Board Secretary

The Illinois State Toll Highway Authority

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE EXECUTIVE SESSION
OF
THE BOARD OF DIRECTORS
July 26, 2012

On July 26, 2012 at approximately 9:25 a.m., the Board of Directors met in Executive Session to discuss personnel matters, collective bargaining matters, potential purchase of real property and pending litigation pursuant to Sections 2(c)(1), 2(c)(2), 2(c)(5) and 2(c)(11) of the Open Meetings Act.

Directors Present:

Chair Wolff
Director Banks
Director D'Arcy
Director Peterson
Director Redick
Director Sweeney
Director Weisner

Staff present for all or portions of the meeting:

Kristi Lafleur
Michael Stone
David Goldberg
Rocco Zuccherro
Shana Whitehead
Paul Kovacs
Rick Redmond (outside expert)
Amanda Knapp (outside expert)
Mike Colsch

Directors discussed the land acquisition approval process and a specific land acquisition settlement.

General Counsel introduced outside counsel Rick Redmond of the Holland & Knight law firm (accompanied by Amanda Knapp) to give a high-level overview of the land acquisition process. Mr. Redmond indicated that he also represents IDOT in land acquisition cases. He indicated that he produced a land acquisition primer for the Tollway legal staff and he distributed it to the Directors for the discussion.

Mr. Redmond indicated that eminent domain or the right to acquire property is a constitutional right of the government. The general restrictions of eminent domain include that the confiscation of property must be for public use and the property owner is entitled to receive a fair cash market value as compensation, or just compensation. The State legislature has added requirements that enable public

bodies to pay more than the just compensation to property owners for relocation costs.

Mr. Redmond indicated that the courts expect a public body to participate in good faith negotiations before it resorts to condemnation to acquire title. In condemnation lawsuits, just compensation for a land acquisition is determined by a jury. He noted that relocation costs are not considered in condemnation proceedings.

Some governmental bodies, including the Tollway, have the right to use quick take procedures to provide for immediate possession of the property title and the payment of preliminary just compensation (PJC). A judge determines the amount of the preliminary just compensation. Once the PJC is deposited with the county treasurer, the condemning entity, in this case the Tollway, has a right to acquire the property and the owner and other entitled stakeholders can withdraw funds from the account. The case can proceed to trial to determine additional compensation or the case can be settled.

Directors asked whether public bodies are allowed to offer a landowner more than the appraised value of the land beyond what is allowable for relocation costs. Mr. Redmond responded that public bodies are bound to act in accordance with the public trust doctrine. He added that the public body also has the obligation of horizontal equity which would prohibit an entity from paying different amounts for two comparable properties without justification.

Regarding relocation, Mr. Redmond indicated that Illinois legislation provides for relocation reimbursement with strict limits and guidelines.

Directors asked whether appraisals based on the income generated by a property can be used for eminent domain cases to determine just compensation. Mr. Redmond responded that income based appraisals can only be used under Illinois law if there are actual leases on the property. However, he recommended that the comparable sales approach be used in most cases because it is the preferred method in Illinois courts.

Directors asked at what point during the quick take process does the Office of the Attorney General (AG) get involved. Mr. Redmond responded that the AG typically assigns land acquisition cases to a special assistant attorney general such as Mr. Redmond's firm. The AG does not participate directly in most quick take negotiations.

Staff reviewed the [*Discussions related to ongoing litigation and litigation strategy are redacted*] current land acquisition status for each major Move Illinois project, background on the land acquisition process, unique challenges for the Move Illinois Program (e.g., negative equity scenarios) and staff recommendations to improve the process.

Regarding the land acquisition budget, staff indicated that budget will likely need to increase. The initial budget did not include relocation costs. Staff indicated that staff will likely come to the Board for approval of a budget increase.

Staff asked the Directors to indicate additional information that they would like to too see on future land acquisition status reports. Directors indicated that they would like to see the following metrics tracked and added to the report: the number of times the Tollway paid just compensation over its initial appraised value; and the number or percentage of “In Process” cases that will be going through the condemnation process. Staff noted that a number of firms choose the condemnation process as a first line of defense and it may not indicate a contentious process.

Directors asked what percentage of the properties are in a negative equity situation. Staff indicated that it is difficult to estimate the percentage of negative equity scenarios because appraisals have not been completed for all of the properties. However, staff indicated that a higher percentage of negative equity scenarios are expected for the I-294/I-57 project which is mostly residential compared to Elgin O’Hare Western Access project which is mostly commercial. The parcels along I-294/I-57 are primarily residential and the parcels along I-90 are mostly commercial.

[*Discussions related to ongoing litigation are redacted*]

Directors discussed external audit findings.

Staff reminded Directors that the annual external audits commissioned by the Auditor General have been conducted by McGladrey and Pullen for the last couple of years. This year, the Auditor General assigned KPMG to conduct the Tollway audit. Although there were no material findings last year, as expected, the new external auditor found several material and immaterial findings. Staff also noted that the Auditor General assigned someone from his office to specifically review

the Tollway Procurement process and, therefore, material findings relative to Procurement are expected.

Staff will continue to work with the external auditors to ensure that the findings are clear and fair. Staff expects to receive a finalized report from the external auditors late August or early September.

Directors discussed salary compression issue.

[Discussions related to personnel issues and collective bargaining matters are redacted]

Directors discussed SEIU collective bargaining agreement.

[Discussion redacted related to collective bargaining negotiations]

Directors discussed the Tobin litigation.

General Counsel updated the Directors by reporting that the presiding state court judge recently dismissed the amended complaint in the Tobin lawsuit. He indicated that the plaintiffs do have appeal rights, but that it was not yet clear if they would choose to exercise those rights.

Directors discussed the scofflaw initiative for toll violation collection.

[Discussions related to ongoing litigation are redacted]

At approximately 11:30 a.m., Chair Wolff asked Director Peterson to preside over the remainder of the meeting because she needed to leave. Director Peterson agreed to do so.

[Discussions related to ongoing litigation are redacted]

Directors discussed personnel issues with the Executive Director.

The Executive Director shared information with the Directors regarding a personnel matter.

At approximately 11:45 a.m., Director Peterson called for a motion to re-enter the public session of the Regular Board Meeting. Director D'Arcy made the motion; seconded by Director Banks. The motion was approved unanimously.

Minutes taken by: _____/s/ on original

Tranece Artis

Board Secretary

The Illinois State Toll Highway Authority

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE EXECUTIVE SESSION OF THE
FINANCE ADMINISTRATION OPERATIONS
COMMITTEE MEETING**

August 15, 2012

On August 15, 2012 at approximately 8:40 a.m., the Finance Administration Operations Committee (FAO) met in Executive Session to discuss the potential purchase of real property and pending litigation pursuant to Section 2(c)(5) and Section 2(c)(11) of the Open Meetings Act and other applicable provisions of the Open Meetings Act.

Directors Present:

Committee Chair Mark Peterson

Director Terry D'Arcy

Director David Gonzalez

Chair Paula Wolff

Staff present for all or portions of the meeting:

Kristi Lafleur

Michael Stone

Rocco Zuccherro

Paul Kovacs

David Goldberg

Directors discussed the land acquisition settlement and proposed Tollway land acquisition process.

Staff presented Legal Item 6 and indicated that board approval is needed to add 37 parcels to the resolutions authorizing land acquisition for the I-294/I-57 project in compliance with the DiBenedetto ruling. The Tollway is required by law to reasonably describe and identify property to be acquired and property subject to condemnation for Tollway projects, and this Resolution No. XX amending resolutions 19478, 19557, 19648, 19690, 19715 continues to satisfy this requirement.

Staff also indicated that the addition of these parcels fit within the current land acquisition budget for this project. However, staff indicated that there may be a need to increase the land acquisition budget in the future.

Directors asked whether approval of this resolution allows staff to notify the homeowners of the Tollway's intent to purchase the property. Staff responded that the parcels are vacant and there will not be any displacements as a result of these land acquisitions.

Directors discussed the land acquisition settlement with Mr. Anderson for parcel No. E-6-05-004.

Staff indicated that this land acquisition has been in negotiation for the last six years. In 2006, the Tollway paid preliminary just compensation in the amount of \$12,692. Outside counsel recommends that the Tollway settle this case for \$18,317. The settlement includes \$5,625.00 for drainage issues.

Directors asked about the amount of legal cost incurred in resolving this case over the last six years. General Counsel indicated he did not have such information.

Directors asked whether the Attorney General's office charges the Tollway for pursuing land acquisition cases. General Counsel responded that typically approved outside law firms, each appointed a Special Assistant Attorney General, are retained to prosecute condemnation cases, and the Tollway funds their fees.

Staff indicated that this case was not court intensive. Most of the time was spent looking at the drainage issues that were in dispute with the landowner.

Directors discussed the Tobin and Midwest Fence litigation cases.

General Counsel indicated that the plaintiff in the Tobin matter has filed a notice of appeal. He also noted that with regard to the Midwest Fence litigation, Tollway witnesses would start being deposed per a schedule running through the end of August.

Directors asked whether IDOT is also going through this appeal process with the Tobin litigation. General Counsel responded that the Tobin case is only against the Tollway and its Board Chair regarding Tollway-specific practices and statutory authority.

At approximately 8:55 a.m., Committee Chair Peterson called for a motion to re-enter the public session of the Finance Administration Operations Committee Meeting. Director D'Arcy made the motion; seconded by Director Gonzalez. The motion was approved unanimously.

Minutes taken by: _____/s/ on original

Tranece Artis

Board Secretary

The Illinois State Toll Highway Authority

THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE EXECUTIVE SESSION
OF
THE BOARD OF DIRECTORS
August 23, 2012

On August 23, 2012 at approximately 10:00 a.m., the Board of Directors met in Executive Session to discuss personnel matters, potential purchase of real property and pending litigation pursuant to Sections 2(c)(1), 2(c)(5) and 2(c)(11) of the Open Meetings Act.

Directors Present:

Chair Wolff
Director Gonzalez
Director D'Arcy
Director Peterson
Director Redick
Director Sweeney
Director Towns
Director Weisner

Staff present for all or portions of the meeting:

Kristi Lafleur
Michael Stone
David Goldberg
Paul Kovacs
Rocco Zuccherro
JoAnn Fehn

Directors discussed the land acquisition approval process.

[Discussion redacted]

Directors discussed land acquisition DiBendetto additional parcels.

Staff indicated that prior to acquiring parcels by condemnation they must be appropriately and specifically identified in a Board resolution. Staff indicated that 37 additional parcels have been identified for this month and that all identifications should be complete by the end of the year.

Directors asked whether there is any reason why the Board should know who the owners of these parcels are now prior to this vote. General Counsel indicated that the recusal process was not necessary at that time because the current Board action simply allows publication of Tollway's purchasing intent.

Directors discussed the land acquisition settlement with Mr. Anderson for parcel No. E-6-05-004.

Staff indicated that this land acquisition has been in negotiation for the last six years. In 2006, the Tollway paid preliminary just compensation in the amount of \$12,692. Outside counsel recommends that the Tollway settle this case for \$18,317. The settlement includes \$5,625.00 for drainage issues. Directors did not have questions or concerns about this settlement.

Directors discussed the construction litigation matter and related law enforcement investigation.

[Discussions related to ongoing litigation and law enforcement investigation are redacted]

Directors discussed the Tobin litigation.

General Counsel indicated that the plaintiffs in the Tobin litigation submitted an appeal to the litigation dismissed earlier in the year.

Directors discussed a construction matter

[Discussions related to ongoing litigation are redacted]

Directors' discussion with the Executive Director.

[Discussions related to ongoing litigation and law enforcement are redacted]

Directors' discussion without the Executive Director.

Directors discussed a personnel matter.

Directors suggested that the staff should provide a tutorial to help the Board understand the nuances of the procurement process and steps being taken to streamline the process.

At approximately 10:45 a.m., Director Sweeney called for a motion to re-enter the public session of the Regular Board Meeting. Director Peterson made the motion; seconded by Director Banks. The motion was approved unanimously.

Minutes taken by: _____/s/ on original

Tranece Artis
Board Secretary
The Illinois State Toll Highway Authority

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE EXECUTIVE SESSION
OF
THE FINANCE, ADMINISTRATION AND OPERATIONS
COMMITTEE
September 18, 2012**

On September 18, 2012 at approximately 12:35 p.m., the Finance Administration Operations Committee (FAO) met in Executive Session to discuss collective bargaining matters and pending litigation pursuant to Sections 2(c)(2) and 2(c)(11) of the Open Meetings Act and other applicable provisions of the Open Meetings Act.

Directors Present:

Committee Chair Mark Peterson
Director Terry D'Arcy
Director David Gonzalez

Staff present for all or portions of the meeting:

Kristi Lafleur (Executive Director)
Michael Stone (Chief of Staff)
David Goldberg (General Counsel)

Directors discussed the worker's compensation settlement matter.

General Counsel indicated that outside counsel is recommending settlement of a worker's compensation case with Edward DePaolo for \$57,000. This workers' compensation claim involves settlement of an injury to Mr. DePaolo's right shoulder in 2007 while performing his duties as a toll collector. Compensability was determined by the arbitrator and upheld by the Commission after hearing over disputed causation. Exposure at trial for nature and extent is estimated at \$71,216.97. The petitioner's settlement demand began at \$300,000 assuming the employee was unable to return to his duties as a toll collector. However, the Tollway was able to offer Mr. DePaolo his position as a toll collector and established the job was within the weight restrictions by his physician. He was thus directed to return to work and refused. The settlement demand was then reduced to \$117,287.50 until the ultimate settlement amount of \$57,000 was attained.

Directors discussed a DBE waiver for Herlihy Mid-Continent Company.

General Counsel indicated that Herlihy Mid-Continent was the lowest bidder for Engineering Item 1 - a noise wall extension at Plainfield Road in the amount of

\$295,500.50. Two other vendors, Dunnet Bay Construction Co. and Lorig Construction, submitted higher bid amounts for this contract.

The engineering estimate for this contract was over \$400,000 but the actual bid amounts submitted were significantly lower. The Tollway set a 16 percent Diversity Business Enterprise (DBE) goal for this contract. However, Herlihy, the lowest bidder, only submitted a 5.3 percent DBE commitment while Lorig the highest bidder submitted a 16.5 percent DBE commitment.

Herlihy requested a waiver for the DBE goal as allowed in the publicly posted Tollway process. A waiver meeting was held on September 6 with the Tollway Diversity Team and Herlihy. Based on the documentation provided and evidence discussed during that meeting, the Tollway Chief of Diversity granted the DBE waiver to Herlihy which allowed them to be the selected vendor for this contract. Herlihy demonstrated legitimate outreach efforts seeking bids from DBE subcontractors.

[Discussions related to ongoing litigation are redacted]

Directors discussed collective bargaining with SEIU.

[Discussion redacted related to collective bargaining negotiations]

At approximately 12:50 p.m., Committee Chair Peterson called for a motion to re-enter the public session of the Finance Administration Operations Committee Meeting. Director D'Arcy made the motion; seconded by Director Gonzalez. The motion was approved unanimously.

Minutes taken by: _____ /s/ on original

Tranece Artis
Board Secretary
The Illinois State Toll Highway Authority

**ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE EXECUTIVE SESSION
OF
THE BOARD OF DIRECTORS
September 27, 2012**

On September 27, 2012 at approximately 10:10 a.m., the Board of Directors met in Executive Session to discuss personnel matters, collective bargaining matters, potential purchase of real property and pending litigation pursuant to Sections 2(c)(1), 2(c)(2), 2(c)(5) and 2(c)(11) of the Open Meetings Act.

Directors Present:

Chair Wolff
Director Banks
Director D’Arcy
Director Peterson
Director Redick
Director Towns
Director Weisner

Staff present for all or portions of the meeting:

Kristi Lafleur (Executive Director)
Michael Stone (Chief of Staff)
Elizabeth Looby (Sr. Asst. Attorney General)
Paul Kovacs (Chief Engineer)
Pete Foernssler (Deputy Chief of Engineering)
JoAnne Fehn (Land Acquisition Manager)

Directors discussed a land acquisition settlement.

Staff reminded Directors that parcels for the land acquisition settlement for the I-90/I-47 Interchange Project were approved by the Board last April. Staff reported that a number of issues were considered in determining to move forward with the acquisition. There was discussion about the fact that the Engineering department considered redesigning the road to avoid use of one parcel but determined that doing so would be cost prohibitive, present safety issues and ultimately make the parcel more valuable to the beneficiaries. Staff conducted a rigorous review of the acquisition process and confirmation of the value of the parcel. The settlement amount was \$3.675 million. After legal consultation, staff reported that it had been determined that moving forward with the settlement was in the best interest of the Tollway.

Directors discussed “DiBenedetto identification” of additional parcels for the I-294/I-57 Project.

Staff reminded Directors that prior to acquiring parcels by condemnation the parcels must be appropriately and specifically identified in a Board resolution. Addition of parcels to this resolution is called “DiBenedetto identification” which references a legal ruling. Staff indicated that Board approval is needed to add 47 parcels to the Right of Way (ROW) land acquisitions resolution for the I-294/I-57 project. Although there is a slight possibility that 3 more parcels will be added to this list, the addition of the 47 parcels will likely finalize the ROW list for the I-294/I-57 project.

Staff asked whether Directors would prefer to have the owner of record listed at the time of “DiBenedetto listing”. Directors responded affirmatively.

Directors discussed the potential contract award to Hill International for construction practices review and audit services.

Staff indicated that they developed an RFP for construction and quality assurance auditing services to ensure that the Tollway has the appropriate processes and controls in place prior to major construction starts for the Move Illinois Capital Program and to ensure that prior work was performed in accordance with Tollway processes.

[Discussions related to litigation and litigation strategy are redacted]

Staff indicated that Engineering Item 3, *Acceptance of Proposal from Hill International, Inc. on Contract MO-12-1234 for Systemwide Construction Management and Quality Assurance Services, in the amount of \$1,000,000.00*, was approved by the FAO Committee for the Board Consent Agenda. The goal of the selection committee was to select a highly qualified firm with national expertise that had not done work for the Tollway in the recent past to perform an audit of the Tollway’s construction management and quality assurance methods and procedures. Independent review was identified as a key selection criterion.

Directors asked about the qualifications of the firms that submitted for this RFP. Staff indicated that of the five firms that responded to the RFP, Hill International was deemed the most qualified by the selection committee. Regarding Hill’s independence, the selection committee indicated that the last Tollway contract award to Hill was executed in 2005; however, the last payment for that contract work occurred in 2008. Additionally, one person listed in Hill’s Statement of Interest worked on Tollway contracts since 2007 but at another firm (not at Hill International).

Staff indicated that the work conducted by Hill International under the 2005 Tollway contract was limited and included high-level budget and schedule auditing services. However, the written scope in the 2005 contract appears to be much broader. Staff also noted that only one Hill employee was involved in the work. That employee did not conduct onsite construction visits or materials testing as will be required under the proposed contract.

Staff added that each of the other competing firms bidding on this contract had some level of work/interaction with the Tollway that could raise questions about the firms' independence/objectivity.

Directors asked how much of the information regarding firms' independence was available to the selection committee during the evaluation process. Staff responded that the screening criteria to determine whether a vendor's statement of interest was passed along to the selection committee consisted of whether or not the firm had been awarded a contract since January 1, 2007. Members of the selection committee were not necessarily aware of Tollway work done by each firm prior to 2007. Staff noted that if the Board approves this contract award, a competing vendor could make a formal bid protest which could stall the start of this service.

Directors asked how often the Tollway received bid protests to awarded contracts. Staff did not have the exact number available but responded that the Tollway rarely received formal bid protests. Staff added that formal bid protests cannot be lodged until the contract has been approved by the Board and that ultimately the Chief Procurement Officer (CPO) would provide a ruling on that matter.

Staff asked how the Directors prefer to be notified about potential bid protests in the future. Directors indicated that having this discussion during Executive Session of the Committee Meeting would be preferable. **Staff indicated that they will consult with General Counsel to determine whether Executive Session is the appropriate setting for these discussions going forward.**

Directors discussed whether the RFP process for construction management and quality assurance auditing services described in Engineering Item 3 should be initiated again with a revised definition of independence. They also discussed the perceived consequences of moving forward with the Hill International contract award and the time associated with resolving a potential bid protest.

Based on these discussions, the Directors agreed to remove the Hill International contract from consideration during the open Board session and to have staff initiate a new RFP for the construction management and quality assurance auditing services.

Staff asked for the Directors' input on the selection criteria to be included in the new RFP. Directors responded that it is important that independence is clearly defined including cutoff dates for previous Tollway contract awards, worked performed and/or payment dates. Directors indicated that the restrictions that apply to the prime contractors should also apply to subcontractors that have previously worked on Tollway projects. Directors also suggested that vendors that have employees that worked on previous Tollway projects with another vendor provide a signed affidavit indicating that those employees will not work on this project.

Directors asked staff to develop the language for the RFP and circulate the RFP to the Directors for input prior to public posting.

Directors the DBE waiver granted to the Herlihy contract award [subcontractor].

Staff reminded Directors that the Tollway is required by law to have DBE waiver process in place. Staff indicated that the two lowest bidding firms for the contract to extend the noisewall on Plainfield Road submitted DBE commitments lower than the DBE goal set by the Tollway for this contract. As discussed in open session, only the highest bidder submitted a DBE commitment that exceeded the DBE goal.

[Discussions related to ongoing litigation are redacted]

Directors discussed the workers'[compensation settlement].

General Counsel indicated that outside counsel recommended settlement of a worker's compensation case with Edward DePaolo for \$57,000. This workers' compensation claim involves an injury to Mr. DePaolo's right shoulder incurred in 2007 while performing his duties as a toll collector. The petitioner's settlement demand began at \$300,000 assuming the employee was unable to return to his duties as a toll collector. However, the Tollway was able to offer Mr. DePaolo his position as a toll collector and established the job was within the weight restrictions by his physician. He was thus directed to return to work and refused.

The settlement demand was then reduced to \$117,287.50 until the ultimate settlement amount of \$57,000 was attained.

The Directors did not pose questions about this settlement.

Directors discussed the collective bargaining sessions with SEIU.

[Discussions redacted due to ongoing collective bargaining negotiations]

At approximately 12:00 p.m., Chair Wolff called for a motion to re-enter the public session of the Regular Board Meeting. Director Banks made the motion; seconded by Director Weisner. The motion was approved unanimously.

Minutes taken by: _____ /s/ on original

Tranece Artis
Board Secretary
The Illinois State Toll Highway Authority

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE EXECUTIVE SESSION
OF
THE BOARD OF DIRECTORS
October 25, 2012**

On October 25, 2012 at approximately 10:20 a.m., the Board of Directors met in Executive Session to discuss personnel matters and pending litigation pursuant to Sections 2(c)(1) and 2(c)(11) of the Open Meetings Act.

Directors Present:

Chair Wolff
Director Banks
Director D'Arcy
Director Gonzalez
Director Peterson
Director Redick
Director Sweeney
Director Towns
Director Weisner

Staff present for all or portions of the meeting:

Kristi Lafleur (Executive Director)
Michael Stone (Chief of Staff)
David Goldberg (General Counsel)

[Note to Directors: the recording device was improperly programmed at the beginning of the meeting and therefore the early part of the meeting was not recorded. Those present summarized the content of that part of the meeting below.]

Directors discussed the status of the Tobin litigation.

General Counsel informed the Directors that the Tobin litigation which was previously dismissed in the Tollway's favor by the Cook County Circuit Court remains in the early stages of an appeal. The Attorney General's Appellate Division, in consultation with Tollway Legal, is working on the case on the Tollway's behalf. Directors asked that General Counsel continue to provide updates on the status of this litigation.

Directors discussed a class action suit against the Tollway and State Police.

General Counsel informed the Directors that a putative class action case has just been filed (not yet served on the Tollway) in Federal Court, charging the Tollway and State Police with inappropriately charging criminal defendants \$20 for copies of their arrest videos. These videos are presumably recorded by the cameras mounted in the windshields of patrol vehicles. The case also names Directors in their individual and official capacities.

General Counsel emphasized that there has only been time to perform a cursory analysis of this case and that he would update the Board further at the next meeting.

Directors discussed litigation.

General Counsel informed the Directors that the Federal Court recently dismissed the punitive damages aspect of the case against the Tollway. [*Discussions related to ongoing litigation are redacted*]

Directors discussed a workers' compensation settlement.

General Counsel informed the Directors that outside workers' compensation counsel for the Tollway is recommending settlement in a case involving Tollway employee, Lisa Streit. Ms. Streit sustained injuries and other complications from an accident in the Tollway warehouse facility. The case was presented on a preliminary non-binding basis to an arbitrator who indicated he would reject the employee's claim for \$300,000, but that the case should be resolved for \$180,000. Tollway counsel agrees with the assessment and recommends settlement in such amount. The Directors indicated their concurrence and intention to present a motion for approval once they re-entered the public session of the Board Meeting.

Directors discussed personnel matters with the Executive Director.

Staff informed Directors that Mike Fudali, the Chief of Internal Audit, resigned and the current Internal Audit Manager will serve as the Acting Chief of Internal Audit. A replacement will be identified if needed in the future.

Directors discussed the status of other staffing searches and the possibility of adding temporary resources in Administration to ramp up engineering and other hiring needed for the Move Illinois Program.

Directors discussed personnel matters without the Executive Director.

Directors met without the Executive Director and briefly discussed personnel.

At approximately 10:50 a.m., Chair Wolff called for a motion to re-enter the public session of the Regular Board Meeting. Director Banks made the motion; seconded by Director Weisner. The motion was approved unanimously.

Minutes taken by: _____/s/ on original

Tranece Artis
Board Secretary
The Illinois State Toll Highway Authority