ILLINOIS STATE TOLL HIGHWAY AUTHORITY

Meeting Date
February 26
2015

Minutes of the

Executive Session of the Board of Directors Meeting

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Record of Closed Meeting | February 26, 2015

The Illinois State Toll Highway Authority (the "Tollway") Board of Directors met in Executive Session at approximately 10:48 a.m. on Thursday, February 26, 2015, to discuss Tollway matters related to performance of specific employees, collective bargaining negotiations and security procedures for the safety of employees and public property, pursuant to Sections 2(c)(1), 2(c)(2) and 2(c)(8) of the *Illinois Open Meetings Act*.

[Bolded entries indicate issues which may require follow-up to present or report to the Board.]

Executive Session Attendance

Board Members Present:
Chair Paula Wolff
Director Jim Banks
Director Terrence D'Arcy
Director Earl Dotson, Jr.
Director David Gonzalez
Director Jeff Redick
Director James Sweeney

Staff Present for all or portions of the Meeting:
Kristi Lafleur (Executive Director)
Michael Stone (Chief of Staff)
David Goldberg (General Counsel)
Wendy Abrams (Chief of Communications)
James Wagner (Inspector General)

Directors discussed the Inspector General's Summary Activity Report.

Executive Director Lafleur stated that a briefing is planned for the Board on items which may be included in the Inspector General's ("IG's") Summary Activity Report, conveyed semi-annually pursuant to requirements of the *Toll Highway Act*, for the period of October 1, 2014 to March 31, 2015. She explained that a preview of these items is being provided in Executive Session to allow Directors an opportunity for discussion of personnel and security issues not appropriate for public session. Ms. Lafleur then introduced James Wagner, Inspector General, to provide the briefing.

Mr. Wagner prefaced his briefing by noting that the Office of Inspector General ("OIG") will be conveying its Summary Activity Report for the period October 1, 2014 - March 31, 2015 to the Tollway Board, the Office of the Governor and the Illinois General Assembly at the end of March. He further stated that the verbal summary he is providing will cover items completed to-date which are likely to be included in the Report, clarifying that the Report could include additional items that may be finalized before the reporting period concludes on March 31, 2015.

Report Item 1: Mr. Wagner first provided background information on an investigation conducted by the OIG of a Tollway customer service representative ("CSR") assigned to an oasis location. He reported that the CSR, when confronted with certain evidence, admitted to misappropriation over the past five years of approximately $10,000 of funds owed to the Tollway by customers who attempted to pay for missed tolls. Mr. Wagner further reported that the employee has resigned and has agreed to repay $10,000 to the Tollway. Mr. Wagner stated that as a result of the investigation, the OIG is proposing a number of recommendations, including: 1) restricting all oases' Customer Service Centers from handling cash transactions, which would instead be referred to the Customer Service Center at Tollway Headquarters; and 2) creating a record of the request, approval and resulting transaction for any CSR transaction requiring manager approval.

The Board and staff then discussed the specifics of how the misappropriation is believed to have occurred and the OIG recommendations proposed, including the benefits and disadvantages of restricting the handling of cash transactions to Tollway Headquarters. Other potential preventative measures were also discussed.

Staff informed the Board that the OIG recommendations resulting from this investigation are currently being evaluated by Business Systems for response. Staff also identified certain preventative measures that have already been implemented, including updating Customer Service Center signage to alert customers both that staff are required to issue a receipt for every transaction and that cash and credit are accepted for all transactions. Staff further specified that a more robust audit trail of transactions made by customer service representatives will be implemented as part of the new "back office".

The Board and staff then discussed potential methods for compelling the restitution agreed to by the offending former employee, including through the criminal justice system, civil action and/or forfeiture of pension contributions anticipated for refund.

A Director asked whether the agency will be seeking individual criminal accountability for the misappropriation. Staff responded that the evidence will be further evaluated and that potential referral in pursuit of criminal charges will be explored.

Upon conclusion of the discussion of this briefing item, staff observed that the IG's investigation identified for management areas of process and security which needed attention, highlighting the value provided by the work of the OIG in improving internal controls within the agency.

Report Item 2: Mr. Wagner then provided background information on the circumstances leading to an investigation made by the OIG of the Tollway's personnel policies and of the Criminal Background Review Committee ("CBRC") process. He reported that the investigation determined sufficient reasonable cause to believe CBRC members do not have adequate expertise or knowledge. He informed the Board that as a result of the investigation, the OIG is proposing a number of recommendations, including: 1) the current policy should be updated to require all CBRC members to have significant experience or training in criminal law and criminal history reports; and 2) the CBRC should use written correspondence to collect information from the candidate regarding the conviction rather than in-person interviews primarily used at present.

A Director asked whether the OIG recommendation that the CBRC request all information obtained by ISP or any other law enforcement agency regarding any applicant prior to hiring is referring to a request for information in writing, and if so, suggested that this recommendation should be more explicit. Mr. Wagner responded affirmatively.

The Board and staff then discussed agency policy regarding criminal background restrictions for specific Tollway positions and the OIG recommendations resulting from this investigation, including methods for interviewing applicants or employees regarding criminal history. Staff noted that the OIG recommendations proposing modifications to Tollway Policy and Procedures are also being reviewed by the Legal department for response and that additional guidance is being sought as to the best practice for conducting either written correspondence or in-person interviews. A Director suggested the Tollway seek guidance from the Safer Foundation and the Cabrini Green Legal Aid Clinic, both non-profit organizations that facilitate reintegration of ex-offenders and work with employers on implementation of best practices.

Directors expressed concern that the Tollway's personnel policies and employment process be transparent to potential job applicants and neither be exclusive of nor intimidating to applicants who may have criminal histories, asserting that debts served, rehabilitation and remediation

should be factors considered in employment decisions. Staff responded that the criminal conviction history practices in place, including a two-tier review process whereby the CBRC identifies, with input from the applicant, the accuracy of the criminal history disclosed and then provides this information along with CBRC guidance to the Administrative Review Board, are designed to allow consideration of these factors in determining suitability for employment.

Staff then assured the Board that a criminal conviction is not a bar to employment at the Tollway and that appropriate employment policies and practices have been implemented, noting that Equal Employment Opportunity Commission ("EEOC") Enforcement Guidance stresses that a blanket or targeted exclusion of individuals could lead to litigation exposure. Staff explained that the agency has developed a narrowly-tailored policy for screening applicants and employees for criminal conduct, in keeping with EEOC Enforcement Guidance, which considers among other things: the nature and gravity of the offense; the time that has elapsed since the offense; and the nature of the job held or sought. Mr. Wagner added his general concurrence with the approach to considering convictions in relation to employment.

Directors discussed collective bargaining negotiations.

AFSCME: Staff then updated the Board on negotiations with the American Federation of State County Municipal Employees ("AFSCME"), reporting that a tentative agreement has been reached with AFSCME Local 3883, comprised of approximately 250, mostly professional, employees working at Tollway Headquarters. Staff then provided a summary of key terms of the tentative agreement that include annual cost-of-living adjustments to wages at 1%, 2%, 2.25%, and 2.25% respectively over the four-year contract term, for a total of a 7.5% increase. Staff continued that the tentative terms also include an equity adjustment of $250 for each employee equivalent to an approximate 0.5% increase in base wages on average for employees as well as other equity adjustments for specific employees, doubling of the employee health insurance premium contribution by the final year of the contract (with exception of the premiums for the Blue Advantage Plan which remains at no cost) and termination of the use of non-revenue transponders for commuting purposes, a benefit to the AFSCME employees estimated at an average of approximately $251. Staff informed the Board that a more formal presentation of the tentative agreement will occur at a future Board of Directors meeting.

[*Discussions redacted related to collective bargaining negotiations.]* **Public Labor Agreement**: Staff then informed the Board that, based on the Governor's public call to eliminate government-mandated project labor agreements ("PLAs"), the Tollway is exploring the process for terminating the Tollway's standing multi-project labor agreement ("MPLA"), in effect since 1994. Staff explained that the Tollway's MPLA establishes the terms under which contractors must operate for all Tollway construction project work.

A Director inquired regarding the process of termination and whether Board action is anticipated to be required. Staff responded that the procedural requirements for termination of the MPLA are currently being examined and that more complete information will be provided to the Board when the Legal department has concluded its assessment. Staff noted that the implications to Tollway contracts in various stages of effect and process have yet to be determined and will need to be considered.

A Director inquired about the process by which a prime contractor becomes a signatory to the Tollway's MPLA. Staff responded that the Tollway's standing MPLA is incorporated into bid packages and becomes part of the construction contract documentation.

A Director requested that an historical framework for Tollway MPLA's be provided for the Board when this issue is revisited.

Directors met with Executive Director Lafleur to discuss personnel matters.

Directors met without Executive Director Lafleur to discuss personnel matters.

Re-Enter Public Session

There being no further questions, at approximately 11:25 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 Dotson. The motion was approved unanimously.

Minutes taken by: /s/ on original

Christi Regnery
Board Secretary
Illinois State Toll Highway Authority

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Record of Closed Meeting | March 26, 2015

The Illinois State Toll Highway Authority (the "Tollway") Board of Directors met in Executive Session at approximately 12:18 p.m. on Thursday, March 26, 2015, to discuss Tollway matters related to the performance of specific employees and the appointment of legal counsel, collective bargaining negotiations, acquisition of real property, and litigation involving the Tollway, pursuant to Sections 2(c)(1), 2(c)(2), 2(c)(5) and 2(c)(11) of the *Illinois Open Meetings Act*.

[Bolded entries indicate issues which may require follow-up to present or report to the Board.]

Executive Session Attendance

Board Members Present:
Chair Paula Wolff
Director Terrence D'Arcy
Director Earl Dotson, Jr.
Director David Gonzalez
Director Peterson
Director Jeff Redick
Director James Sweeney
Director Tom Weisner

Staff Present for all or portions of the Meeting:
Kristi Lafleur (Executive Director)
Michael Stone (Chief of Staff)
David Goldberg (General Counsel)
Rocco Zucchero (Deputy Chief of Engineering for Planning)

Directors discussed Land Acquisition.

Staff provided a summary table of the Elgin O'Hare Western Access Project ("EOWA") and the Jane Addams Memorial Tollway (I-90) parcel identification reports noting the addition of five parcels on the EOWA report.

Directors discussed litigation matters and assignment of counsel.

General Counsel provided background on the case, previously discussed with the Board, of *Carollo v. Tollway and Village of Schiller Park*, a suit emanating from a sledding collision with a raised water main pipe (owned by Schiller Park) on Tollway property. Staff reminded the Board that an agreement was reached with the Village of Schiller Park that assigned the Village a 75% share, and the Tollway a 25% share of responsibility for any settlement agreement reached through mediation. Staff reported that a settlement agreement was reached for $150,000, the Tollway's share of which is $37,500. Staff expressed satisfaction with the settlement amount and specified that Legal Item #7 on the Board agenda is seeking Board approval for payment of the Tollway's share of the settlement.

General Counsel then provided a summary and update on the case of *Midwest Fence Corp. v. Illinois State Toll Highway Authority*, a constitutional challenge to federal and state programs designed to benefit disadvantaged business enterprises ("DBEs") in the highway construction industry. Staff highlighted that the United States District Court Judge in the Northern District of Illinois granted complete summary judgment for the federal government, the Illinois Department of Transportation ("IDOT"), and the Illinois State Toll Highway Authority. Staff reported that the Plaintiff will have an opportunity to appeal but that the Court concluded, in a clear and strong opinion, that the defendants' use of DBE programs to remedy past and present discrimination in the construction industry was constitutional.

A Director inquired whether the case continues against any remaining defendants. Staff responded in the negative, specifying that all defendants were granted complete summary judgment.

[Discussions related to litigation and litigation strategy are redacted.] General Counsel then specified that Legal Item #8 on the Board agenda is seeking approval of the selection of two firms from the Tollway's approved pool of firms to serve in the roles of bond counsel (Mayer Brown LLP) and issuer's counsel (Foley & Lardner LLP) in connection with the first planned 2015 transactions, which may include a new money issuance and/or a refunding of the Toll Highway Senior Priority Revenue Bonds, 2008 Series B, and to recommend one additional firm to serve as Underwriter Counsel (Ice Miller LLP) for the same transaction(s).

Directors discussed collective bargaining negotiations.

MAP: Staff reminded the Board that, as was previously discussed in Executive Session at the January Board of Directors meeting, a Collective Bargaining Agreement has been reached with Metropolitan Alliance of Police ("MAP") Chapter 336, comprised of seven civilian call-takers. Staff

stated that terms of the Agreement remain unchanged since the previous discussion. Staff then provided a summary of key terms of the Agreement that include a four-year contract term with 2% annual wage increases. Staff specified that Legal Item #9 on the Board agenda is seeking approval of a resolution authorizing the execution of the Collective Bargaining Agreement with MAP.

Teamsters Local 700: Staff updated the Board on negotiations with the International Brotherhood of Teamsters Local 700 ("Teamsters Local 700"), noting that although the Tollway received several weeks prior a 5-day notice of intent to strike, strike action was not taken. Staff reported that informal conversations with Teamsters Local 700 leadership have continued since that time.

[Discussion redacted related to collective bargaining negotiations.]

Directors met with Executive Director Lafleur to discuss personnel matters.

Directors met without Executive Director Lafleur to discuss personnel matters.

Re-Enter Public Session

There being no further questions, at approximately 12:56 p.m., Chair Wolff called for a motion to re-enter the public session of the Regular Board Meeting. Director Peterson made such a motion; seconded by Director Redick. The motion was approved unanimously.

Minutes taken by: /s/ on original
Christi Regnery
Board Secretary
Illinois State Toll Highway Authority

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Record of Closed Meeting | April 23, 2015

The Illinois State Toll Highway Authority (the "Tollway") Board of Directors met in Executive Session at approximately 10:25 a.m. on Thursday, April 23, 2015, to discuss Tollway matters related to the performance of specific employees, collective bargaining negotiations, and litigation involving the Tollway, pursuant to Sections 2(c)(1), 2(c)(2) and 2(c)(11) of the *Illinois Open Meetings Act*.

[Bolded entries indicate issues which may require follow-up to present or report to the Board.]

Executive Session Attendance

Board Members Present:
Chair Paula Wolff
Director Terrence D'Arcy
Director Earl Dotson, Jr.
Director David Gonzalez
Director Mark Peterson
Director Jeff Redick
Director James Sweeney
Director Tom Weisner
Director Jim Banks

Staff Present for all or portions of the Meeting:
Kristi Lafleur (Executive Director)
Michael Stone (Chief of Staff)
David Goldberg (General Counsel)
Dave Wilson (Senior Asst. Attorney General)

Directors discussed a workers' compensation settlement.

General Counsel provided a summary of the workers' compensation matter of Don Wilch, a Tollway employee who suffered a serious knee injury while performing his duties as an equipment

operator laborer. He reported that a negotiated settlement between the parties has been reached for $60,000, an amount which is below the expected range of potential litigation exposure of $65K - $85K, as determined by outside counsel. General Counsel advised that the Legal department is recommending approval.

Directors discussed litigation matters involving the Tollway.

Midwest Fence Corp. v. Tollway: General Counsel provided a summary and update on the case of *Midwest Fence Corp. v. Illinois State Toll Highway Authority*, a constitutional challenge to federal and state programs designed to benefit disadvantaged business enterprises in the highway construction industry. Staff highlighted that in March, the United States District Court Judge in the Northern District of Illinois granted complete summary judgment for the federal government, the Illinois Department of Transportation, and the Illinois State Toll Highway Authority; however, the Plaintiff in the matter has recently filed notice of appeal with the United States Court of Appeals for the Seventh Circuit. Staff stated that the Board will be updated when the Seventh Circuit Court of Appeals releases their calendar.

[Discussions related to litigation and litigation strategy are redacted.] **Marro v. Tollway:** General Counsel then provided a summary and update on the case, previously discussed with the Board, of *Marro v. Illinois State Toll Highway Authority*, a wrongful termination claim made by former husband and wife Tollway employees. Staff informed the Board that the termination involved investigations conducted by the Office of Inspector General ("OIG"), *[Discussions related to litigation and litigation strategy are redacted.]* Staff continued that the presiding judge has requested that parties provide a report to the court by June 9, 2015 on the possibility for amicable resolution. General Counsel then requested Board authorization to initiate settlement negotiations with the Plaintiffs in an effort to explore the Tollway's options to satisfactorily resolve these matters.

[Discussions related to litigation and litigation strategy are redacted.] The Board expressed consensus in support of initiating settlement negotiations with the Plaintiffs.

Directors discussed collective bargaining negotiations.

AFSCME: Staff informed the Board that, as was previously discussed in Executive Session at the February Board meeting, a Collective Bargaining Agreement has been reached with AFSCME Local 3883, comprised of approximately 255, mostly professional, employees working at Tollway Headquarters. Staff reported that the AFSCME membership recently voted to ratify the Agreement. Staff then provided an overview of the key terms of the Agreement, distributed to

Directors, which include annual general wage adjustments at 1%, 2%, 2.25%, and 2.25% respectively over the four-year contract term, which continues through December 31, 2017 and an increase to the employee health insurance premium contribution of 1.5 times its current rate effective March 1, 2016 and two times its current rate effective March 1, 2017, with exception of the premiums for the Blue Advantage Plan which remains at no cost. Staff added that the Agreement includes equity adjustments for 20 bargaining unit employees and summarized for the Directors how the equity adjustments were determined. Staff concluded by specifying that Legal Item #7 on the Board agenda is seeking approval of a resolution authorizing the execution of the Collective Bargaining Agreement with AFSCME Local 3883.

[Discussions redacted related to collective bargaining negotiations.]

A Director requested confirmation that the schedule of wage increases in the Agreement have been anticipated in the Tollway's 2015 Budget. Staff confirmed that the schedule of wage increase in both the AFSCME and Teamsters Collective Bargaining Agreements can be accommodated within the 2015 Budget without adjustment.

TEAMSTERS: Staff stated that a Collective Bargaining Agreement has been reached with Teamsters Local 700 ("Teamsters"), comprised of approximately 450 employees, primarily equipment operator laborers and roadway maintenance workers. Staff noted that the Agreement provides for bargaining unit members to continue receiving health insurance coverage through Teamsters Local Union No. 727 Benefit Funds (the "Teamsters Benefit Fund"). Staff then provided a summary of key terms of the Agreement, including extension of the agreement expiration date from October 31, 2017 to February 28, 2018 (resulting in a contract term of 3 years 4 months), establishing the Tollway's contribution for the Teamsters health insurance premium at $1,781 per month (a reduced amount from that initially proposed) with a 10% maximum annual increase thereafter, termination of the use of non-revenue transponders for commuting purposes (the schedule for termination is to be negotiated), paid parental leave with terms consistent with those of all other Tollway employees, freezing of step wage increases for a period of 18 months and general wage increases of 0% until March 1, 2017 when there would be a 1% increase. Staff concluded by specifying that Legal Item #8 on the Board agenda is seeking approval of a resolution authorizing the execution of the Collective Bargaining Agreement ("CBA") with Teamsters.

A Director requested confirmation that the cost of the Tollway's contribution to Teamsters health insurance coverage would be approximately $20,000 annually per employee. Staff confirmed, clarifying the amount would be $21,372 per employee for the initial year, effective as of March 1, 2015.

A Director requested confirmation that the Tollway contribution for health insurance coverage would thereafter increase by 10% a year. Staff responded that the maximum allowable annual increase after the initial contract year would be 10% but that lower increases could potentially be requested. *[Discussions redacted related to collective bargaining negotiations.]* A Director asked who would determine the rate of the annual increases to the Tollway contribution for health insurance coverage. Staff responded that the Board of Directors of the Teamsters Benefit Fund would make that determination.

[Discussions redacted related to collective bargaining negotiations.]

Directors met with Executive Director Lafleur to discuss personnel matters.

Directors met without Executive Director Lafleur to discuss personnel matters.

Re-Enter Public Session

There being no further questions, at approximately 11:03 a.m., Chair Wolff called for a motion to re-enter the public session of the Regular Board Meeting. Director Banks made such a motion; seconded by Director Redick. The motion was approved unanimously.

Minutes taken by: /s/ on original

Christi Regnery
Board Secretary
Illinois State Toll Highway Authority