

TOBACCO SETTLEMENT AUTHORITY
Special Meeting

Minutes

June 23, 2020

Board Chair, Ms. Carla DewBerry, called the meeting of the Tobacco Settlement Authority (the “Authority”) to order at 1:01 p.m. via videoconference and teleconference.

Board members present on the line were Mr. Tim Kerr, Mr. Wolfgang Opitz, Mr. Ken Vyhmeister, and Mr. James Krejci. Authority staff members present were Mr. Steve Walker, Executive Director; Mr. Paul Edwards, Deputy Director; Mr. Bob Cook, Senior Finance Director; Ms. Debra Stephenson, Senior Controller; Ms. Carol Johnson, Affiliates Manager; and Ms. Rona Monillas, Affiliates Program Assistant.

Finance team members present were Ms. Faith Pettis of Pacifica Law Group; Ms. Christine Ok of U.S. Bank; Mr. Rusty Fallis from the Washington Attorney General’s Office; Mr. Fred Eoff of Public Financial Management Group; Ms. Kym Arnone, Mr. William Bloom, and Ms. Kate Jovanoska of Jefferies LLC; Mr. Howard Zucker and Mr. Roger Bagley of Hawkins, Delafield and Wood; and Mr. Michael Jang and Mr. Jigar Bhakta of Citigroup.

Other meeting attendees were Mr. Bob Woodard and Mr. Matt Vickery of the Washington State Housing Finance Commission.

Mr. Walker started the meeting by sharing that the Washington State Housing Finance Commission which provides staffing for the Authority is working toward dismantling systemic racism in the organization and its affiliates, and their programs.

**Introduction of
the New Board
Member**

Ms. DewBerry introduced and welcomed the Authority's new board members, Mr. Ken Vyhmeister and Mr. James Krejci.

**Approval of the
Dec. 16, 2019
Special Meeting
Minutes**

Ms. DewBerry asked for a motion to approve the minutes of the meeting held on December 16, 2019. Mr. Kerr made the motion and it was seconded by Mr. Opitz. The minutes were approved unanimously, 5-0.

**Election of
Secretary and
Treasurer**

Ms. DewBerry introduced Mr. Walker to present the election of Board Secretary and Treasurer. Mr. Walker stated that each year the Board elects a Secretary and a Treasurer. He noted that this past year Mr. Kerr served as Secretary and Ms. Petersen-Spawn served as Treasurer. Ms. Petersen-Spawn's second term on the board officially ended on May 7. Mr. Walker added that Mr. Kerr has volunteered to continue in his role of Secretary if the Board chooses to nominate and re-elect him. Mr. Opitz volunteered to accept the role of Treasurer if the board chooses to nominate and elect him.

Mr. Kerr made the motion to elect himself as Secretary and Mr. Opitz as Treasurer. Ms. DewBerry seconded the motion. The motion was approved unanimously, 5-0.

**Action Item:
Approval of
Resolution
#20-01
Authorizing
the Use and
Acceptance of
Electronic
Signatures**

Ms. DewBerry introduced Mr. Edwards to present Resolution No.20-01.

Mr. Edwards stated the resolution authorizes the use and acceptance of electronic signatures in accordance with RCW 19.360.020 and ESSB 6028 and further authorizes the development of procedures for implementation of an electronic signature policy.

Ms. DewBerry asked for a motion to approve Resolution No.20-01. Mr. Kerr made the motion. Mr. Opitz seconded the motion. The resolution was approved unanimously, 5-0.

**Action Item:
Approval of the
Annual Budget**

Ms. DewBerry introduced Mr. Cook to present the proposed annual budget for the

fiscal year beginning July 1, 2020 thru June 30, 2021.

Mr. Cook stated that the Authority is projecting a 2.9% increase in expenses due to state audit costs. Mr. Cook said that an Officer's Certification was submitted to the Trustee for operating funds and they were received in April.

Mr. Cook stated that the Authority is projecting .41 FTEs for FY21 compared to .42 FTEs budgeted for FY20. He added that as of the end of the FY20, the Authority is projecting to bill about .16 FTEs.

Mr. Cook said that the Authority is budgeting \$50,000 from the Tobacco Settlement Revenues (TSR) to cover about \$111,000 in expenses. He then called the Board's attention to a detailed breakdown of the expenses.

Mr. Vyhmeister inquired about a perceived inconsistency between the allocated budget, the budget deficit, and the increase in the budget's net position as reflected in the Unaudited statement of net position as of April 30, 2020. Ms. Stephenson said that even though the Authority is trying to take as little money from the TSRs as possible, an extra amount is added in the budget to cover staff work and other unpredicted expenditures. Ms. Stephenson said that the Authority generally does not use the extra allocation which causes the budgeted expenditure to be higher than the current year projected actual expenditures.

Ms. DewBerry asked for a motion to accept the budget for FY21. Mr. Opitz made the motion and it was seconded by Mr. Vyhmeister. The motion was approved unanimously, 5-0.

**Review &
Consider
Approval of
Financial
Statement**

Mr. Cook presented the unaudited, current financial statement of the Authority's General Operating Fund. Mr. Cook stated that the financial statement as of April 30, 2020 shows assets of approximately \$174,000 with \$21,000 of expenditures, leaving a net unrestricted position of around \$152,000. He referred to the detailed breakdown of the expenses on the last page of the unaudited financial statement.

Ms. DewBerry asked for a motion to approve the unaudited financial statement. Mr. Opitz made the motion and it was seconded by Mr. Vyhmeister. The motion was approved unanimously, 5-0.

Approval of the Invoice for Services

Ms. DewBerry stated that the invoice for the period January 1, 2020 – March 31, 2020 will need an approval from the board since the Authority does not have a treasurer in place. She then introduced Mr. Cook to present the invoice for services. Mr. Cook stated that the invoice from the Housing Finance Commission for the three-month period totaled just over \$15 thousand.

Ms. DewBerry asked for a motion to approve the invoice for services. Mr. Opitz made the motion and it was seconded by Mr. Krejci. The motion was approved unanimously, 5-0.

Invoice for Services

Mr. Cook stated that the invoices from the Housing Finance Commission for a three-month period from October 1, 2019 through December 31, 2019 totaled just over \$7 thousand. The invoice was previously approved by the former Board Treasurer, Ms. Petersen-Spawn.

Tobacco Securitization Market Update

Ms. DewBerry introduced Ms. Kym Arnone to present the Tobacco Securitization Market update.

Ms. Arnone reported that the market has experienced extreme volatility caused by COVID-19.

Ms. Arnone stated that in February Jefferies priced \$5.3 billion of tobacco bonds for the State of Ohio's Buckeye Tobacco Settlement Financing Authority, the second largest transaction ever executed in the tobacco securitization market. She added that in June Jefferies also priced a \$350 million tobacco refunding for Los Angeles County, the first high yield transaction to price since the market dislocation caused by COVID-19.

Ms. Arnone reported that the total industry of domestic cigarette shipments declined by 5.5% for the full year 2019. She stated that Original Participating Manufacturer (OPM) shipments were down 7.08% while total industry shipments declined by 4.98%. She added that OPM market share decreased to 81.11% from 82.85% in 2018. Accordingly, the maximum potential Non Participating Manufacturer (NPM) adjustment for sales in 2019 was 18.24%, an increase from the 14.88% maximum adjustment for 2018.

Ms. Arnone stated that British American Tobacco (BAT) filed a patent infringement suit against IQOS, a Philip Morris International Inc. product. BAT is alleging IQOS infringes on its patents and is seeking damages and a possible exclusion to prevent the importation of IQOS into the US unless a license fee is paid.

Trustee Report

Ms. DewBerry introduced Ms. Ok to present the Trustee's Report.

Ms. Ok reported that annual receipts from the TSRs were received and applied to the upcoming principal and interest payments in June. She mentioned that since funds only come once a year, a portion was reserved for the payments due in December. She added that in June the Authority was able to optionally redeem \$14,055,000 of bonds which was applied only to the 2013 bonds since the 2018 bonds are not optionally callable until 2023.

Ms. Ok said that payments continue to come in from the Lehman bankruptcy. She received checks totaling \$9,592 in June.

Ms. Ok stated that the required semi-annual report was submitted to the rating agency in June. She also reported that the total reserve was maintained at \$31,997,719.44.

Mr. Vyhmeister inquired how the reserve is invested and if the Authority follows

any regulations or guidance when it comes to investing these monies. Ms. Ok said that the reserve is currently invested in the U.S. Bank money market account and added that the Authority follows guidance on permitted investments as allowed by the indenture.

Status of Non-participating Manufacturer (NPM) Adjustment Arbitration

Ms. DewBerry introduced Mr. Rusty Fallis to give the status report on the Nonparticipating Manufacturer (NPM) adjustment arbitration.

Mr. Fallis gave an overview of the NPM adjustment and how it affects the state's TSRs.

Mr. Fallis stated that there is a possibility that the arbitration panel will issue a decision on the 2004 arbitration in July or August. He added that there will be no adjustments to the state's payment and to the TSA's share if Washington state wins the 2004 arbitration. Mr. Fallis said that the states and the companies have agreed that disputes for the years 2005, 2006, and 2007 will be addressed in a single arbitration.

Executive Director's Report

Mr. Walker recognized Ms. Marlis Petersen-Spawm for her eight years of service as a board member to the Authority.

Mr. Walker reported that Washington's projected General Fund revenue collections for the 2019-21 state budget have decreased by nearly \$4.5 billion, according to estimates released by the Washington State Economic and Revenue Forecast Council.

Mr. Walker presented relevant correspondence regarding the updates on the Tobacco Securitization Market and Master Settlement Agreement (MSA) payments.

Mr. Walker stated that if there is no change in the schedule, the next Authority board meeting will be on December 2, 2020.

**Public
Comment**

Ms. DewBerry asked if there were any comments from the public.

Adjournment

Ms. DewBerry adjourned the meeting at 2:00 p.m.

Ms. Carla DewBerry, Chair