

Meeting of the Board
PENNSYLVANIA HIGHER EDUCATIONAL FACILITIES AUTHORITY
February 19, 2014
Room 515 North Office Building
Harrisburg, Pennsylvania
11:04 a.m. Prevailing Time

MINUTES

1. Call to Order, Filing of Proof of Sunshine Notice and of Sending Notice of the Meeting, Roll Call and Announcement of Quorum.
2. Approval of the Minutes of the Meeting of January 23, 2014.
3. Old Business.
 - A. Financing Policy for College or University-Related Organizations to Provide Student Housing.
4. New Business.
5. Adjournment.

1. CALL TO ORDER, FILING OF PROOF OF SUNSHINE NOTICE AND OF SENDING NOTICE OF THE MEETING, ROLL CALL AND ANNOUNCEMENT OF QUORUM.

With a quorum of the Board being present, the meeting of the Board of Pennsylvania Higher Educational Facilities Authority was called to order on Wednesday, February 19, 2014 at 11:04 a.m. prevailing time, in Room 515 North Office Building, Harrisburg, Pennsylvania. The proof of the Sunshine advertisement and certification in regard to sending the notice of meeting is attached to these minutes and identified as Appendix "A".

Board Members Present

Steven Heuer, (Proxy for Governor Thomas W. Corbett)
Jennifer Smeltz, (Proxy for Senator Michael J. Folmer)
Lisa Felix, (Proxy for Senator Andrew E. Dinniman)
Sean Dempsey, (Proxy for Representative Warren E. Kampf)
Alan Cohn, (Proxy for Representative Anthony M. DeLuca)
Christopher Craig, (Proxy for Treasurer Robert M. McCord)
Christal Pike-Nase, (Proxy for Auditor General Eugene A. DePasquale)
James Henning, (Proxy for Secretary of General Services Sheri L. Phillips)
Nicole Duffy, (Proxy for Acting Secretary of Education Carolyn C. Dumaresq)

Authority Personnel Present

David Player, Comptroller
Beverly Nawa, Administrative Officer

Also Present

William McCarty, Esquire, Hartman Underhill & Brubaker LLC
Jennifer Langan, Deputy Chief Counsel, Pennsylvania Treasury

Participated Via Conference Call

Robert Baccon, Executive Director
Margaret Angel, Esquire, Buchanan Ingersoll & Rooney, PC

2. APPROVAL OF THE MINUTES OF THE MEETING OF JANUARY 23, 2014.

A copy of the minutes of the meeting of January 23, 2014, was distributed to the Board Members prior to this meeting. It is therefore recommended that consideration be given to the adoption of the following Resolution:

RESOLVED That the minutes of the PHEFA meeting of January 23, 2014, be and hereby are approved as presented.

Upon **MOTION** by **Mr. Dempsey**, and **SECONDED** by **Ms. Pike-Nase**, and after full discussion, the above Resolution was unanimously approved at the PHEFA Board Meeting of February 19, 2014.

3. OLD BUSINESS.

A. Financing Policy for College or University-Related Organizations to Provide Student Housing.

Chairperson Heuer explained that the Board received a policy for an issue that Mr. Craig brought up. Chairperson Heuer thought that it would be a good idea to have our Counsel walk us through the policy. He asked Mr. McCarty to do that.

Mr. McCarty explained that this is the policy that the Board requested. They also provided a legal analysis which was requested by the Board last year. The Authority has been doing financings of this type for some time, although you have never had a formal policy.

Mr. McCarty reviewed the highlights of the policy which included the following:

College is defined as any nonprofit educational institution situated within the Commonwealth empowered to provide a program of education beyond the high school level;

Facilities are broadly defined for colleges but include student housing and dormitory facilities;

These financings are generally undertaken by 501(c)3 organizations created for the benefit of the college or strictly for the project to get done;

The majority of these financings have been done on behalf of the State System of Higher Education;

The purpose of the policy is to try to provide guidelines that the Board is comfortable with;

The first requirement is that the financing has to comply with the Act;

The second requirement is that the financed facility has to be for the benefit of the college for the entire term of the bonds;

The third requirement is that there should be an adequate nexus between the Foundation and the college;

The State System of Higher Education's website spells out what is needed for an organization to become an affiliate of a State System University.

Ms. Pike-Nase indicated that when she looked at the actual policy, they require a Memorandum of Understanding (MOU). She believes that is important because they discussed the fact that they need some formal documentation.

Mr. Craig is not certain that the Board should treat separately a State System School versus a private college or even a community college. But if they are going to rely on the State System guidelines then it should be an MOU involving the construction, operation, management and maintenance of the student housing facility.

Mr. McCarty believes that this should be looked at in layers. First, it has to be the right kind of facility. It has to be for the benefit of the college.

Mr. Craig added that the organizations have to be the right kind of organizations.

Mr. McCarty said that beyond that there should be an adequate nexus, such as, do they formally recognize the entity. Is there a mechanism where they monitor their financings? What happens to the assets is the next point when the thing is done? When the outside entity terminates or dissolves, do the assets transfer to the college or university for which it was created? That has always been the deciding factor. Lastly, is the college involved in the transaction? There is normally a Cooperation Agreement and/or a Management Agreement or another agreement of that type in place. Typically there is an independent manager that is hired to manage in conjunction with the college's own residential facilities.

Mr. Craig said that the whole purpose of this structure is to keep the debt off the books of the college. He is not saying that it is a bad reason, but wants to recognize that is the reason.

Ms. Angel added that when they prepared the memo these were alternate ways of making a determination of the relationship between the college and the affiliated organization. They were trying to give guidelines for the Authority to make a decision as to whether or not they thought there was a sufficient nexus between the two organizations. This was not meant to be exclusive or limiting.

Mr. Craig said that this has been a concern of the Treasurer's Office and some other offices. He understands that this has been done since 2000 and there is precedence for doing this, but they have seen actions taken place in cities in the Commonwealth where decisions that are being made began to push envelopes and create risks for various issuing authorities. That is the reason they asked for a legal opinion that specifically addressed this and addressed questions whether or not this was for a college purpose even though it isn't debt taken on by the college. The opinion said so long as there was sufficient nexus this was an appropriate exercise of our powers. All of this leads to the importance of having a policy to insure the Board that there is that sufficient nexus. That we are moving out of any gray zone and we can demonstrate that this board has done its due diligence to ensure that there is a proper relationship between the college and the foundation. That there is a proper usage of the facilities and that there is proper control of the facilities used by the college. That allows us to have greater comfort level in supporting these sort of debt structures. The Auditor General's Office put together a kind of parallel check list. He views this as an overarching policy. They want clear documentation on how the asset is to be handled. How the asset control is to be transferred. Who owns the asset and a clear definition of the property interest, minimally that the property be used for the exclusive purpose or benefit of the college. He does not think the college will ever be involved in the payment of the bonds or we wouldn't be here. His primary concern with the policy is phrases like "should". He thinks there should be "shalls". There should be very specific guidance and criteria not only for the schools coming before the Board but for the Board as well. He is looking for something that is applicable to all of the colleges, State System, private colleges as well as the community colleges. This will spill over into the other Board. Literally a check list that Board staff would provide to us. The Board is provided by staff very specific criteria that they have looked at appropriate documents to rely on for each transaction. The check list is something for people to consider. He wants to make sure the entire process is to drive us to the point that we can be satisfied that we have proper and sufficient nexus by which we can support the debt issue for a separated nonaffiliated foundation.

Ms. Pike-Nase thought the policy was very good. The checklist would be an attachment.

Mr. Craig said that there has to be a recognition and it has to be a 501(c)3 organized for the sole purpose of supporting the college. There has to be some sort of control that the college can exercise over the facility. There also has to be something that talks about if the foundation is dissolved or ended, the assets go to college.

Chairperson Heuer suggested counsel incorporating some of the suggestions into another draft and sending it out to Board Members to take a look at.

Ms. Duffy asked if it would be possible to look at projects that have been approved to see if there are any that would not have been approved when comparing it to the checklist. Her intention is to make sure that they are not putting parameters in that they would not feel comfortable with.

Mr. McCarty said that they do not have an informational data base to look at this information.

Mr. Craig said that they don't want to create unintentional consequences that otherwise a legitimate project would not be approved even if they established the proper nexus.

Mr. McCarty said that it could be done but it would take a fair amount of time and he is not sure that the Board wants to incur that expense.

Ms. Angel said that when they worked on the memorandum they had quite a few of these transactions in their files and all of the criteria were met by all of the financings that they saw.

Chairperson Heuer said that they would table the policy until they get an updated draft.

Ms. Duffy asked if they could look at the changes before they are incorporated into the draft so that everyone is comfortable with the changes.

Chairperson Heuer agreed that Board Members would get to see the changes prior to the next meeting which is April 3rd.

Chairperson Heuer asked if there was any other old business to come before the Board, and hearing none, he moved to new business.

4. NEW BUSINESS.

Chairperson Heuer asked if there was any new business to come before the Board, and hearing none, he asked for a motion to adjourn.

5. ADJOURNMENT.

There being no further business to come before the Board at this time, upon **MOTION** by **Ms. Pike-Nase**, and **SECONDED** by **Mr. Henning**, the PHEFA Board Meeting was adjourned at 11:36 a.m.

SUNSHINE ACT MEETING NOTICES

Thursday, February 6, 2014

If you need an accommodation due to a disability,
please contact the ADA contact name listed below.

PA Fish & Boat Commission, Boating Advisory Board Meeting: February 13, 2014,
9:00 AM. Susquehanna Conference Rm., HBG. If you are a person with a disability
and require an auxiliary aid, service or other accommodation, please contact the
agency at 717-705-7834 or the PA AT&T Relay Service at 1-800-654-5984 (TDD).

Contact Name: Michaela Shuster 705-7834
The State Transportation Commission (STC) Meeting: February 13, 2014,
10:00 AM. Commonwealth Keystone Bldg., Conf. Rm. 8N1, 400 North St., HBG.
Attendees are required to enter the building through the main entrance and
proceed to the reception area. Disability arrangements must be made at least
24 hours in advance.

Contact Name: Julie Harmantzis 787-2913

PA Apprenticeship and Training Meeting: February 14, 2014, 10:00 AM.
Labor and Industry Bldg., 17th Fl. Conference Rm., HBG.

Contact Name: Debra Wagner 787-4671

TIME CHANGES: Citizens Advisory Council (CAC) Meetings: February 18, 2014,
10:00 AM. Rachel Carson State Office Bldg., Rm. 105, 400 Market St., HBG.
Add'l Meetings Scheduled: 3/18/14, 4/15/14, 5/21/14, 6/17/14, 7/15/14, 9/16/14,
10/21/14, 11/18/14 at same above time and location.

Contact Name: Michele Tate 787-4527

Tuition Account Program Advisory Board Meeting: February 18, 2014,
1:00 PM. Judicial Ctr. Bldg., Conf. Rm. A, 601 Commonwealth Ave, HBG.

Contact Name: Kathleen McGrath 772-5000

SPECIAL: PA Higher Educational Facilities Authority Meeting:
February 19, 2014, 10:30 AM. North Office Bldg., Rm. 515, HBG.

Appendix A

Contact Name: Bev Nawa 975-2204

SPECIAL: State Public School Building Authority Meeting: February 19, 2014,
10:30 AM. North Office Bldg., Rm. 515, HBG.

Contact Name: Bev Nawa 975-2204

The Public Private Transportation Partnerships Board Meeting:

February 28, 2014, 11:00 AM. Keystone Bldg., PUC Hearing Rm. 1, 2nd Fl.,
400 North St., HBG. Attendees must enter through a public Entrance:
North St., Entrance (also handicapped entrance) take North St. elevators to
2nd fl., Disability arrangements must be made at least 24 hours in advance.

Contact Name: Kathryn Tartaglia 214-4035

RESCHEDULED: Pennsylvania Milk Marketing Board Meeting:

February 11, 2014, 3:00 PM., Agriculture Bldg., Rm. 309,
2301 N. Cameron St., HBG.

Contact Name: Agency Office 787-4194]]>

Appeared in: ***Patriot-News*** on Thursday, 02/06/2014

STATE PUBLIC SCHOOL BUILDING AUTHORITY
PENNSYLVANIA HIGHER EDUCATIONAL FACILITIES AUTHORITY
Notice of the Meeting of the Board to be Held
February 19, 2014

Notice was in letterform, as follows:

This letter advises that a meeting of the State Public School Building Authority and the Pennsylvania Higher Educational Facilities Authority Boards will be held on **Wednesday, February 19, 2014**, at **10:30 a.m.**, in **Room 515 North Office Building, Harrisburg**, Pennsylvania, for the purpose of: (a) approving certain projects for financing; and (b) consideration of such other matters as may properly come before the Board.

Enclosed herewith is a copy of the notice that has been posted on the bulletin board in the Authority office, in accordance with Act No. 213, 1957.

I would appreciate it if you would make the appropriate notation on the attached slip, indicating whether or not you plan to be present at the meetings and return same to us.

Sincerely,

/s/ Robert Baccon

Robert Baccon
Executive Director

Enclosures

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Appendix A

Harrisburg, PA

I CERTIFY that the notice on the previous page for the February 19, 2014, meetings was dispatched to the following on January 31, 2014, at the addresses indicated, constituting all of the members of the Board of the State Public School Building Authority and the Pennsylvania Higher Educational Facilities Authority.

Thomas W. Corbett, Governor of Pennsylvania
225 Main Capitol Building, Harrisburg, PA
Steven S. Heuer, Proxy for Governor Corbett
333 Market Street – 18th Floor, Harrisburg, PA
Michael J. Folmer, Designated by the President Pro Tempore of the Senate
170 Main Capitol Building, Harrisburg, PA
Andrew E. Dinniman, Designated by the Minority Leader of the Senate
183 Main Capitol Building, Harrisburg, PA
Warren E. Kampf, Designated by the Speaker of the House of Representatives
422 Irvis Office Building, Harrisburg, PA
Anthony M. DeLuca, Designated by the Minority Leader of the House of Representatives
115 Irvis Office Building, Harrisburg, PA
Robert M. McCord, State Treasurer
129 Finance Building, Harrisburg, PA
Eugene A. DePasquale, Auditor General
229 Finance Building, Harrisburg, PA
Sheri L. Phillips, Secretary of General Services
515 North Office Building, Harrisburg, PA
Carolyn C. Dumaresq, Acting Secretary of Education
333 Market Street - 10th Floor, Harrisburg, PA

GIVEN under my hand and seal this 31st day of January 2014.

/s/ Robert Baccon

Robert Baccon, Executive Director
State Public School Building Authority
Pennsylvania Higher Educational Facilities Authority