

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE EXECUTIVE SESSION OF THE
REGULAR BOARD MEETING**

May 22, 2014

On May 22, 2014 at approximately 9:40 a.m., the Board of Directors met in Executive Session to discuss certain matters related to personnel matters, real estate acquisition and litigation matters involving the Tollway, pursuant to Sections 2(c)(1), 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.]

Directors Present:

Chair Paula Wolff

Director Jim Banks

Director Terry D’Arcy

Director Earl Dotson

Director Mark Peterson

Director Jeff Redick

Director Jim Sweeney

Director Tom Weisner

Staff present for all or portions of the meeting:

Kristi Lafleur (Executive Director)

Michael Stone (Chief of Staff)

Rocco Zuccherro (Deputy Chief of Eng. for Planning)

David Goldberg (General Counsel)

Joanne Fehn (Land Acquisition Manager)

Directors discussed Land Acquisitions.

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

A Director inquired as to the size, location, and proposed utilization of the four added parcels on the I-90 parcel identification report. Staff responded with the requested information.

Discussion ensued over historical practices, as well as current and future arrangements with utility companies regarding access, easement, and terms of sale for property adjacent to, acquired by, or purchased from the Tollway.

Staff noted that preservation of future access rights for the Tollway has not traditionally been included as standard practice terms.

The Board requested that staff pursue cooperative agreements with utility companies regarding permanent Tollway easement and give consideration to future Tollway easement when negotiating agreements and terms of property sales.

A Director inquired as to the purpose of providing Record Owner Reports to the Board. Staff responded that the names on the Record Owner reports are being provided for informational purposes at the preliminary DiBenedetto stage in the interest of transparency, to provide advance notice to Directors of any potential conflict of interest.

A Director inquired into the circumstances resulting in the five ownership changes listed on the EOWA report. Staff provided their general understanding and assumptions about reasons for these changes.

Discussion ensued regarding common causation for ownership changes and practices for tracking and reporting parcel ownership to best inform the Directors of potential conflicts.

Staff noted that the parcel identification report is preliminary and listings should be expected to change. The Record Owner Reports are as of publication and also subject to change. Any potential conflict of interest would pertain to the Record Owner at the time of acquisition, for parcels that are ultimately acquired.

Directors discussed a workers' compensation settlement.

General Counsel provided a summary of the workers' compensation matter of Alfonso DeVivo. A settlement amount of \$59,141.30 is being recommended by outside counsel. Mr. DeVivo has returned to work at the Tollway.

A Director asked if Mr. DeVivo is performing the same job responsibilities that had previously resulted in injury. **Staff responded that this information would be provided.**

A Director asked for the name of Mr. DeVivo's workers' compensation hearing officer. **Staff responded that this information would be provided.**

Discussion ensued regarding practices for limiting Tollway liability from potential re-injury while complying with labor agreements and legislative mandates including the *Workers' Compensation Act* and the *Americans with Disabilities Act*.

Staff noted that outside counsel and the agency's workers' compensation administrator will be consulted to determine procedures for return-to-work of post-injury employees. **A presentation by outside counsel on workers compensation issues is planned for an upcoming committee meeting.**

Directors discussed litigation matters involving the Tollway.

General Counsel provided a summary and update on the Midwest Fence Corp. v. Illinois State Toll Highway Authority litigation.

A Director inquired as to legal precedent and merits of the lawsuit. General Counsel provided the requested information noting that outcomes of similar cases have been highly dependent upon the facts; how the program is implemented at the agency and results of underlying disparity studies which serve as evidentiary bases. The Tollway commissioned disparity study of minority- and women-owned business enterprises in highway construction contracting and professional services industries is in the process of being updated, with results expected later this year.

A Director inquired as to the status of the McHugh Construction DBE fraud matter. General Counsel responded that McHugh Construction will pay the United States and the State of Illinois \$12 million to resolve allegations of fraud on government programs designed to benefit women- and minority-owned sub-contractors under the terms of a civil settlement agreement. Additionally, McHugh agreed to implement a corporate compliance program, appoint a compliance officer, and be subject to an independent monitor for three years.

Directors met with Executive Director Lafleur regarding Personnel matters.

Directors met without Executive Director Lafleur regarding personnel matters.

At approximately 10:26 a.m., Chair Wolff called for a motion to re-enter the public session of the Regular Board Meeting. Director Peterson made the motion; seconded by Director D'Arcy. The motion was approved unanimously.

Minutes taken by: _____ /s/ on original

Christi Regnery
Board Secretary
Illinois State Toll Highway Authority

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE EXECUTIVE SESSION OF THE
REGULAR BOARD MEETING**

June 26, 2014

On June 26, 2014 at approximately 10:05 a.m., the Board of Directors met in Executive Session to discuss certain matters related to collective bargaining, real estate acquisition and litigation matters involving the Tollway, pursuant to Sections 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.]

Directors Present:

Chair Paula Wolff

Director Jim Banks

Director Terry D’Arcy

Director Earl Dotson

Director David Gonzalez

Director Mark Peterson

Director Jeff Redick

Director Jim Sweeney

Staff present for all or portions of the meeting:

Kristi Lafleur (Executive Director)

Michael Stone (Chief of Staff)

Rocco Zuccherro (Deputy Chief of Eng. for Planning)

David Goldberg (General Counsel)

Directors discussed Land Acquisitions.

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 four parcels, with one ownership change, on the EOWA report and the addition of seven parcels, with one ownership change, on the I-90 report.

A Director asked if it is unusual to have an ownership change subsequent to approval. Staff responded that ownership changes are not uncommon.

Directors discussed collective bargaining.

Staff provided an update on negotiations with the Service Employees International Union (“SEIU”) and the American Federation of State, County and Municipal Employees Union (“AFSCME”). Staff stated that at the request of the SEIU, and with Tollway agreement, a mediator has been engaged to help advance the SEIU negotiations. Staff reported that the introduction of a mediator has begun to assist the negotiating process.

A Director inquired if regular meetings are being held with union representatives prior to the negotiation sessions to insure open lines of communication. Staff responded that labor-management meetings are held, typically at the request of the unions, but the pace of negotiations often does not lend itself to meetings outside of the negotiation process.

A Director inquired as to the time-frame for negotiations, and if the introduction of a mediator results in the imposition of a deadline. Staff responded that it is hopeful that a mediator would advance negotiations but no particular deadlines have been imposed and there is no timetable for a contract agreement.

A Director asked if the counterparty in these negotiations is the SEIU, Local 73. Staff responded affirmatively.

A Director inquired into the name of the primary negotiator for the SEIU. Staff provided the requested information.

Directors discussed a litigation matter.

Staff provided background and updated information on investigations, worker’s compensation claims, and additional litigation related to a former employee.

Additionally, staff informed the Board that a recent inquiry indicates that a complaint filed by the former employee may have triggered an investigation by the Office of Executive Inspector General (“OEIG”).

A Director inquired into the jurisdiction of the OEIG. Staff responded that the jurisdiction of the OEIG extends to all executive branch state agencies except for those that fall under the jurisdiction of those executive inspectors general who have jurisdiction for state agencies under the Attorney General, the Secretary of State, the Comptroller or the Treasurer. Staff added that while not falling under primary jurisdiction, the OEIG is understood to have some purview over the Tollway’s Office of the Inspector General.

Regarding the pending dispute with the referenced former employee, a proposed settlement has been reached, at amounts below thresholds that require Board approval, but Staff requests guidance from the Directors regarding the advisability of entering into a settlement.

Discussion ensued on the merits, options and potential outcomes of claims and litigation. Directors acknowledged that the proposed settlement amounts fall below thresholds requiring Board approval and that such a settlement is advisable. The Board further requested that staff follow typical practices for similar matters, based on the merits and best interests of the Tollway.

At approximately 11:05 a.m., Chair Wolff called for a motion to re-enter the public session of the Regular Board Meeting. Director Gonzalez made the motion; seconded by Director D'Arcy. The motion was approved unanimously.

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

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE EXECUTIVE SESSION OF THE
REGULAR BOARD MEETING**

July 24, 2014

On July 24, 2014 at approximately 10:15 a.m., the Board of Directors met in Executive Session to discuss Tollway matters related to personnel matters, real property acquisition, sale and purchase of securities, and litigation matters pursuant to Sections 2(c)(1), 2(c)(5), 2(c)(7) 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.]

Directors Present:

Chair Paula Wolff
Director Terry D’Arcy
Director Earl Dotson
Director David Gonzalez
Director Jeff Redick
Director Jim Sweeney
Director Tom Weisner

Staff present for all or portions of the meeting:

Kristi Lafleur (Executive Director)
Michael Stone (Chief of Staff)
Paul Kovacs (Chief Engineer)
David Goldberg (General Counsel)
Michael Colsch (Chief of Finance)
Joanne Fehn (Land Acquisition Manager)
Jennifer Bugaj (Assistant Attorney General)
Robert Lane (Senior Assistant Attorney General)
William O’Connell (Debt Manager)

Directors discussed Land Acquisitions.

Staff introduced attorney Rick Redmond of the law firm of Holland & Knight to provide information and legal guidance to the Board regarding land acquisition activities around O’Hare International Airport (the “Airport”) required for the Elgin O’Hare Western Access Project (“EOWA”). Mr. Redmond stated that the Tollway’s proposed acquisition for the Western Bypass incorporates 233 acres of property owned by City of Chicago (the “City”). The acquisition itself is of three types; 42 acres in fee simple title, 147 acres in permanent easement and 44 acres in temporary easement.

Mr. Redmond explained the legal framework for the determination of fair cash market value and compensation methods related to the three types of acquisition:

- Of the 42 acres in the fee simple acquisition area that are proposed to be acquired, the Tollway would traditionally pay fair cash market value.
- With relation to the permanent easement acquisition, compensation is traditionally based upon diminution in value of the property caused by the imposition of the permanent easement. In this circumstance the Federal Aviation Administration (“FAA”) controls what the area can be used for and the “highest and best use” of almost all of this property is likely Airport use. This raises the question of how much depreciation will be caused by imposition of a Tollway easement.
- The third type of acquisition is a temporary easement and the compensation in that transaction is typically based upon rental cost.

Mr. Redmond went on to describe other aspects of this acquisition that differ from the Tollway’s usual land acquisition activities. Unlike other property the agency acquires, and as a result of provisions of the O’Hare Modernization Act, the Tollway cannot condemn O’Hare Modernization Program (“OMP”) property.

In addition, the Airport is likely obligated to obtain a release and approval from the FAA for a change of use or sale of dedicated airport property. The City asserts that the FAA is going to require the City to be paid fair cash market value for any property the City wants to release. The Tollway, and outside counsel, are conducting legal research to determine if compensation should be based on fair cash market value in this circumstance since the Tollway is a public agency and the construction of the Tollway is of benefit to the Airport and the public. A future Intergovernmental Agreement with the City outlining parties’ responsibilities and indicating what rights are to be conveyed to the Tollway is anticipated.

Mr. Redmond then reported the appraisal status of the proposed land acquisition. The property is being appraised by two separate entities; Integra Realty Resources and Clarion & Associates. Mr. Redmond counsels that in complex acquisitions second appraisals are recommended. All appraisals will have to be reviewed by the Review Appraiser, soon to be selected. Mr. Redmond outlined several common appraisal approaches and counseled that the Tollway and the Airport may reach substantially different views on the fair cash market value of the property to be acquired.

Mr. Redmond provided his assessment of the Airport’s position with respect to the land acquisition issues:

- The City has said they perceive themselves as obligated to selling the property to the Tollway for fair cash market value to obtain FAA approval.
- The City has indicated a willingness to enter into an agreement with the Tollway to convey the property within the OMP acquisition area at their original appraisal cost (approximately \$32 million). However, the original appraisal costs were costs of acquiring improved property. It has not yet been determined how the appraised value of the improved property ten years ago line up with the market value today of the currently unimproved property.
- Environmental issues related to the Airport land acquisition include the required removal of an estimated 1.24 million cubic yards of excess soil at an estimated cost, if uncontaminated, of \$28 million. Consideration additionally needs to be given to whether the excess soil is contaminated. Two agreements have been negotiated with the Airport to facilitate soil testing.

Staff noted that the Tollway has committed, as a condition of the agreement with the Airport, to refrain from sharing soil test results with Tollway appraisers. Mr. Redmond confirmed that this is common practice in the appraisal process because appraisers are not competent to accurately assess the effect of contamination on market value. Mr. Redmond added that topography, such as excess soil mounds, is an element that is considered by the appraisers.

- Airport negotiators assert that Chicago City Council committee hearings and Chicago City Council approvals for any settlement are necessary. The FAA also has discretion to hold its own public hearings.

A Director inquired into which Chicago City Council committees would require a hearing. Staff responded that the Aviation Committee would hold hearings and that additional committees may request hearings as well.

Staff then described the current timeline for land acquisition of the Airport property and discussed the issues related to the timing aspects of the negotiations. Staff stated that the Record of Decision on this project must be acted upon by December 12, 2015 (land acquisition is likely to suffice for this purpose).

A Director inquired into the mechanism for seeking an extension to the three year validity period of Tollway environmental studies and federal approval for the EOWA. **Staff responded that this information would be provided.**

Staff discussed additional issues including potential “add-on” projects in the Mt. Prospect/Touhy sector and the Taft Avenue sector noting that these projects, not currently part of the Airport land acquisition, may become part of broader negotiations. Staff additionally reported that pending changes in leadership at the Airport may impact ongoing negotiations.

A Director inquired about the Tollway’s negotiating leverage absent the right of condemnation. Staff acknowledged this concern, but noted that the Airport, the public and local communities will benefit from the EOWA and anticipate that all parties will negotiate in good faith.

A Director expressed concern regarding possible soil contamination on the property. Staff replied that soil testing is ongoing and that the results, although not part of the appraisal process, will factor into the negotiations.

A Director inquired whether these costs were factored into the original project budget. Staff replied that the overall project budget provided \$114-115 million for acquisition of the Airport parcels.

A Director asked how much of the property is at or below grade. Staff replied that most of the property will be at grade.

A Director inquired if the Airport had made any demands concerning project design. Staff responded that the Airport had requested certain modifications to the Mt. Prospect/Touhy and Taft Avenue sectors. Staff additionally stated that the Airport and FAA were involved in aspects of the overall design process.

A Director inquired when appraisal results are anticipated to be shared with the Board. Staff responded that the appraisals are expected to be completed in August and that the results should be conveyed to the Board in August or September.

A Director inquired whether consideration was given to instead acquiring property outside of the OMP property. Staff responded that during the environmental impact statement process a consensus of support for the EOWA Western Bypass was built around specific utilization of the OMP property, mitigating impact to surrounding communities. Mr. Redmond added that from the point of view of the Airport, the construction of the Tollway should not impair development of the OMP.

In conclusion, Mr. Redmond noted his understanding that the proposed addition by the Airport of a new Western Terminal will not be possible, based on current configurations, without construction of the EOWA Western Bypass.

There being no further questions, the Board thanked Mr. Redmond for his participation and he left the meeting.

Directors discussed a litigation matter.

Staff provided background on a federal suit filed in the northern District of Ohio, a suit seeking class action status in which all the Directors are named as defendants. The plaintiff claims Illinois' open road tolling and violation system is unfair to non-Illinois residents. The Tollway is working with local counsel in Ohio, addressing the lack of merit of the claim and alternatively requesting the case be transferred to Illinois. Staff stated that outside counsel has been retained and that the Board will be kept apprised of status in the case.

A Director inquired whether the plaintiff in this suit is an attorney. Staff responded that we do not know if the plaintiff is an attorney; it is believed he is represented by a family member.

Directors discussed an SEC Matter.

Staff reported that the Securities and Exchange Commission ("SEC") announced in March a six-month (expiring September 10, 2014) voluntary reporting program entitled the Municipalities Continuing Disclosure Cooperation ("MCDC") initiative for municipal securities issuers and underwriters with the goal of encouraging market information transparency from the municipal sector. Staff stated that the MCDC initiative is designed to encourage self-reporting of instances where issuers may have materially misrepresented compliance with disclosure requirements.

Staff then provided background information on the evolution of SEC reporting requirements and the regulation of municipal bond issuers.

A Director inquired if private sector bond issuers fall under the same regulatory authority. Staff responded that corporate issuers are directly regulated by the SEC.

Staff explained that for each Tollway bond issuance, the Tollway enters into a continuing disclosure undertaking to inform underwriters of events related to

Tollway operations and finance. In the Tollway's most recent new money bond issuance, updated disclosures were published related to bond insurer downgrades and the timing of publication of the Tollway's audited financials. These events are those being considered in relation to the MCDC.

A Director inquired as to the underwriters' responsibility relative to the issuance of a Public Offering Statement. Staff responded that underwriters have an obligation to perform due diligence and are also subject to the MCDC initiative and SEC disclosure requirements.

Directors and staff discussed the identified instances of potential non-compliance, the circumstances that led to their omission or delay in reporting, and whether these instances rose to the standard of "material".

Staff stated that an entity which self-reports would be subject to an SEC consent decree with assurance of no fine, and a settlement offer with terms stating that the entity does not admit or deny guilt with respect to the charge. Staff added that there are other potentially negative consequences and requirements in the settlement agreement that the Tollway would have to be willing to adopt as part of the self-reporting.

Staff reported that outside legal counsel has been asked to provide analysis as to whether the identified instances of potential non-compliance would be considered "material" to an investor.

A Director asked for the advice of management as how best to proceed. General Counsel provided his preliminary thoughts that the Tollway's events are non-material for purposes of this initiative, but requested additional time to get more expert guidance. Staff added that the SEC does not provide a clear definition of "materiality."

Director Weisner left the meeting at 11:50 a.m.

Staff noted the settlement terms offered for self-reporting during the MCDC initiative are temporary. At the conclusion of the MCDC initiative the penalties for unreported material misrepresentations, as determined by the SEC, potentially could be more severe.

A Director inquired into other settlement terms required under the MCDC initiative. Staff responded that settlement terms would include a posting on the entity's official

statements for the next five years revealing that the entity entered into a settlement as the result of a securities fraud charge, and an obligation to provide periodic compliance certificates with the SEC.

Directors and staff discussed the role of underwriters in the MCDC initiative, their interests in the process and the advisability of proactively approaching them to determine their opinions as to materiality or their intentions to self-report any instances of material non-compliance.

A Director inquired concerning the risks of not self-reporting should the potential instances of non-compliance ultimately be viewed as “material” by the SEC. Staff replied that the SEC does not disclose what the future penalties will be except to indicate they may be more severe outside of the MCDC initiative.

Discussion ensued as to potential penalties, the proper course of action regarding self-reporting, the responsibilities of the Tollway and of underwriters engaged to assist the Tollway in compliance, and the advisability of approaching Tollway underwriters.

A Director inquired into the obligations of the issuer and the underwriter in regards to compliance with disclosure requirements. Staff responded that subsequent to the bond issuance, reporting as part of the continuing disclosure undertaking is the responsibility of issuer. The obligation of the underwriter is to validate the issuer’s past and present compliance at the time of issuance. Discussion then continued regarding the assignation of responsibility in regards to compliance.

Directors and staff then discussed the options raised by, and the interests and objectives of, the MCDC initiative.

Staff stated that the Tollway will continue to work with outside counsel on this issue but that the impending deadline necessitates decisions be made shortly as to the appropriate course of action. General Counsel indicated that informal consensus today will be adequate direction for staff to proceed should the Board indicate its desire to initiate discussions with Tollway underwriters regarding any intentions to self-report. He further indicated that during Executive Session at the August Board meeting informal Board consensus will be adequate for a decision regarding self-reporting under the MCDC initiative. If required, a formal settlement agreement, prepared in conjunction with the SEC, would then be brought for formal Board approval after any initial reporting.

A Director inquired as to the potential impact on future Tollway bond issuances were the Tollway to self-report under the MCDC initiative. Staff responded that a reporting of non-compliance with disclosure requirements was contained within the Tollway's offering document for the most recent bond issuance and the underwriters indicated that pricing was not affected. Staff estimated that the future impact of self-reporting under MCDC on forthcoming debt transactions is not likely to be significant.

Staff requested guidance from the Directors regarding contacting underwriters. Directors concurred that staff should initiate contact with the Tollway underwriters. A Director also stated a preference that, should the Board decide to proceed with self-reporting, such self-reporting should be undertaken prior to the SEC deadline. A Director added that staff should also review further guidance that may come out regarding MCDC.

Due to time constraints, Directors agreed that discussion of Legal Items 7 and 8 would be deferred to the August meeting. A Director requested the names of the attorneys and the arbitrators involved in the workers' compensation matters in Legal Items 7 and 8. There was discussion regarding the materiality of this information and at what level of detail the Board should be involved. **Staff responded that this information can be provided.**

Directors discussed a Department of Labor matter.

Staff briefed the Board on a matter with the Illinois Department of Labor ("DOL") related to the traffic crash in January of 2014 involving a tractor trailer which hit a Tollway vehicle and State Police cruiser, killing a Tollway worker and seriously injuring a State Trooper. The Illinois Department of Labor has been investigating the incident over the course of the last six months, and preliminary citations relating to Tollway performance and procedures were received the week of July 14, 2014. Staff further stated that the nature of the citations was unexpected.

Legal counsel provided information about contestability of citations and steps taken to comply with DOL requirements for public posting of the citations.

Discussion ensued on the content and merits of the citations, with staff detailing multiple training sessions with Tollway employees and Illinois State Police on incident management and safety zones. Staff added that the Tollway holds monthly traffic and safety meetings to discuss traffic incidents, best practices, and roadway conditions.

A Director asked if the way in which the citations are written exposes the Tollway to liability. General Counsel provided legal guidance in this area.

Staff expressed concern regarding the effect of the citation on Tollway employees. Staff stated that the citations were posted with a companion message from the Tollway and managers were made available for any employees who had questions. Staff reported that after initially instructing the Tollway to publically post the citations, and the Tollway complying with that request, the DOL legal counsel indicated that posting of the citation was not required. Staff further stated that, although the DOL informed the Tollway such a posting was not required, the Tollway chose to leave the posting in place. A Director expressed concern that Tollway employees may develop an incorrect perception they have been improperly trained and protected.

A Director inquired if the Illinois State Police is a subject of the DOL investigation. Staff responded that the Tollway was the only subject of the investigation that resulted in these citations.

A Director inquired into communications with the DOL. Staff provided a summary of interactions with DOL personnel.

A Director inquired into reaction from Tollway employees or labor representatives regarding the citation related to safety zones and training. Staff stated that feedback, gathered informally, consisted most commonly of confusion as to the basis for DOL findings related to safety aspects of the scene where the fatality occurred.

Directors were updated on litigation matters.

General Counsel stated that in the case of former employee, Mr. Joseph Caffarello, who filed a multi-count complaint against the Tollway, the Tollway Inspector General and State Representative Rita Mayfield, the Federal Court has dismissed all complaints but for the complaint regarding discrimination based on national origin. This remaining complaint proceeds against the Tollway and Tollway Inspector General. All complaints against Rep. Mayfield were dismissed.

General Counsel then briefed Directors regarding a settlement with a former employee, Mr. Anthony Ford, discussed at the July, 2014 Board meeting, by stating that the proposed settlement was accepted and all ancillary issues have been resolved.

A Director inquired into the sensitivity of parcel maps provided to Directors for discussion during Executive Session. Staff stated the maps provided are confidential, but a similar document, which was not confidential, could be provided.

At approximately 1:05 p.m., Chair Wolff called for a motion to re-enter the public session of the Regular Board Meeting. Director Redick made the motion; seconded by Director Gonzalez. The motion was approved unanimously.

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

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE EXECUTIVE SESSION OF THE
REGULAR BOARD MEETING**

August 28, 2014

On August 28, 2014 at approximately 10:48 a.m., the Board of Directors met in Executive Session to discuss certain matters related to personnel matters, collective bargaining negotiations, real property acquisition, sale of securities, and litigation matters involving the Tollway, pursuant to Sections 2(c)(1), 2(c)(2), 2(c)(5), 2(c)(7) 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.]

Directors Present:

Chair Paula Wolff

Director James J. Banks

Director Terry D’Arcy

Director Earl Dotson, Jr.

Director David Gonzalez

Director Jeff Redick

Director James Sweeney

Director Tom Weisner

Staff present for all or portions of the meeting:

Kristi Lafleur (Executive Director)

Mike Colsch (Chief of Finance)

Rocco Zuccherro (Deputy Chief of Eng. for Planning)

Joanne Fehn (Land Acquisition Manager)

David Goldberg (General Counsel)

David Wilson (Sr. Asst. Attorney General)

Director Mark Peterson (departed at 10:55 a.m.)

Directors discussed Land Acquisitions.

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 four parcels on the EOWA report and the addition of four parcels on the I-90 report.

Chair Wolff then inquired of Directors whether any are aware of a conflict of interest that might preclude them from participating in the next item for discussion, an Administrative Settlement request. Hearing none, Chair Wolff asked staff to proceed.

Staff presented a request for Administrative Settlement between the Tollway and the Metropolitan Water Reclamation District of Greater Chicago (“MWRD”). Staff stated that the Tollway needs to acquire two parcels from the MWRD in order to facilitate construction of the Elmhurst Road Interchange on the Jane Addams Memorial Tollway (I-90). The respective parties have each had appraisals conducted of the properties. An Administrative Settlement between the parties is proposed at a cost which is the mid-point between the respective appraisals. Staff is recommending the proposed settlement in order to move forward with acquisition of the parcels.

A Director inquired whether management was comfortable with the recommendation. Staff responded affirmatively.

Directors discussed collective bargaining.

Staff provided background and an update on negotiations with the Service Employees International Union (“SEIU”). Staff noted that negotiations, ongoing since September 2012, have included 30 negotiation sessions, with eight of these incorporating a mediator. Staff stated that last week a tentative agreement was reached with SEIU.

Staff provided an overview of the issues central to the negotiations including wages, overtime, job security, health insurance/insurance premiums, and non-revenue transponders.

Staff then provided a summary of key terms of the tentative agreement that include:

- An agreement for a five-year contract term with wage increases limited.
- Increase to the employee health insurance premium contribution.
- Termination of the use of non-revenue transponders for commuting purposes with limited exceptions. The arrangement requires the termination be applied to non-union employees as well if it is applied to SEIU members.
- Language modifications to address overtime resulting from requests made of money room truck drivers for a “second run”. Previous language guaranteed drivers an additional eight hours credited when called upon for a “second run”, while terms of the new contract will credit employees based only on actual hours worked. An accommodation is to be made for an increase to pay scale for some employee categories.

Staff stated that SEIU representatives are disseminating the tentative agreement and reviewing the terms with membership. A vote will then be held to ratify the

agreement. Should the SEIU membership vote to ratify the agreement, staff is recommending the Board approve the terms of the agreement.

[Director Peterson departs the meeting at 10:55 a.m.]

A Director inquired about the anticipated timing for completion of the agreement. Staff relayed their understanding that the SEIU collective bargaining unit is recommending to their membership that they approve the agreement and in a timely manner to allow the agreement to be considered by the Board at the September meeting.

A Director asked if the tentative agreement addresses job security related to the implementation of electronic tolling. Staff indicated there is no substantive change to this aspect of the bargaining, while also noting that a reduction in toll collector staffing levels has been achieved through attrition rather than layoffs.

A Director inquired about current staffing levels of toll collectors, in light of electronic tolling. Staff responded that staffing levels are appropriate.

A Director inquired about overtime costs related to “second run” requests of money truck drivers. Staff responded that under current agreement a fixed additional eight hours are added to any employee’s accumulated weekly hours for each “second run” performed, with any hours worked in excess of 40 per week paid at overtime rates. The tentative agreement would add only actual hours worked for each “second run” performed.

A Director inquired about the rates paid for current employee health insurance premiums. Staff responded that the premium amount is dependent upon the healthcare plan selected and salary categories. Staff provided detail as to the available plans and the respective premium rates paid by employees to participate in these plans.

Staff then stated that proposed terms of the tentative agreement would, in most circumstances, result in a doubling of the existing employee rate of contribution by the final year of the agreement. Staff added that current caps limiting employees’ annual premium contribution would be removed under the tentative agreement.

A Director inquired if the health insurance premium rates charged to employees are calculated as a percentage of salary. Staff responded that the insurance premiums consist of a fixed amount to participate in each plan, but that there are five levels of salary categories used to determine that amount.

A Director asked if the premium percentage increases will apply for each of the five salary levels. Staff responded in the affirmative, explaining the increase will result in a doubling of the existing employee rate of contribution for each of the five levels of salary category by the final year of the agreement.

A Director inquired about the cost of the Blue Advantage Plan to the Tollway. **Staff responded that this information will be provided.** Staff noted that the Tollway has seen some migration from the HMO Illinois and Blue Cross PPO plans to the lower cost Blue Advantage plan offered.

A Director inquired if the terms of the tentative agreement regarding healthcare insurance premiums will be consistent with other Tollway labor agreements. Staff responded that this is the first contract addressing insurance premium increases and that negotiations with other collective bargaining units are ongoing. Staff stated that the Tollway's objective is to achieve consistent terms across all labor agreements in regards to healthcare insurance.

A Director requested confirmation that the increases to health insurance premiums in the tentative agreement are not conditional upon acceptance by any other labor unions. Staff confirmed.

[Sr. Asst. Attorney General Dave Wilson departs at approximately 11:15 a.m.]

A Director inquired about the Excise Tax on High-Cost Coverage (Cadillac Tax) under the ObamaCare health reform law and whether the Tollway is nearing thresholds of coverage provided that would trigger the tax. **Staff responded that this information would be provided.**

A Director inquired whether the five year term of the tentative agreement is typical. Staff responded that the tentative agreement is for a longer period than previous agreements.

A Director inquired about the rationale and precedent for providing signing bonuses as part of the tentative agreement. Staff responded that signing bonuses have been provided in past agreements, however, not final year bonuses. Staff stated that the signing bonuses were used to incentivize agreement to a benefit change that eliminates the use of non-revenue transponders for commuting purposes.

A Director inquired about terms of the agreement related to non-union employee use of non-revenue transponders. Staff responded that a condition of the SEIU agreement to the benefit change that eliminates use of non-revenue transponders for

commuting is that the policy must be applied uniformly to non-union employees. Staff added that this condition does not address usage of non-revenue transponders under other labor agreements.

A Director inquired about the cumulative annual cost for the use of non-revenue transponders by SEIU members. Staff responded with the requested information.

[Secretary's note: Due to a technical issue the final approximately 20 minutes of the Executive Session Meeting was not recorded. Minutes were taken throughout by the Board Secretary. During such time, no action was taken by the Board except a motion to re-enter the public meeting as noted below.]

Further discussion ensued regarding the tentative agreement's expected performance in light of thresholds defined by the Excise Tax on High-Cost Coverage (Cadillac Tax) effective in 2018. The Board requested that staff provide further analysis of this issue prior to request for approval of the tentative agreement.

A Director inquired about negotiations with the American Federation of State County Municipal Employees ("AFSCME"). Staff updated the Board on developments regarding the issue of overtime from the ongoing collective bargaining negotiations with the AFSCME.

A Director inquired about the types of positions held by AFSCME members within the Tollway. Staff responded that there are approximately 280 AFSCME members within the Tollway, comprised mostly of professional staff working at the Central Administration building.

A Director asked which labor union represents the largest number of Tollway employees. Staff responded that the SEIU represents the largest number of Tollway employees.

Directors discussed an SEC matter.

Staff provided an update on the Securities and Exchange Commission ("SEC") Municipalities Continuing Disclosure Cooperation ("MCDC") initiative for municipal securities issuers and underwriters. Staff stated that reporting deadlines are September 10th for underwriters/banks and have been extended to December 1st for issuers/municipalities, allowing the Tollway additional time to consult with the underwriters and seek further counsel about the materiality of any findings.

Staff provided a brief overview on the identified instances being considered in connection with MCDC. Staff stated that after further consultation they are still of the view that the identified instances of potential non-compliance do not rise to the standard of “material”. Staff reported that two outside advisors have provided confidential memoranda which conclude that the Tollway has not experienced events requiring reporting under the MCDC process.

Staff then updated the Board on the outcomes of contact initiated with Tollway underwriters seeking further understanding of these parties’ intent regarding the Tollway. Staff noted that responses have not yet been received from all underwriters contacted.

A Director inquired of staff if they had recommendations for how best to proceed. Staff suggested using the deadline extension to allow time to obtain responses from all Tollway underwriters as well as seek additional counsel as to the advisability of self-reporting under the initiative. **Staff stated that updates will be provided at upcoming Board meetings.**

A Director asked what information, if any, will be made available subsequent to the MCDC September 10th reporting deadline for underwriters and banks. Staff responded that, as a result of an anticipated sizable response to the initiative, there is an expectation that the SEC will provide further guidance on specific types of instances where issuers may have materially misrepresented compliance with disclosure requirements.

Directors discussed a Department of Labor matter.

Staff briefed the Board on a matter with the Illinois Department of Labor (“DOL”). Staff stated that DOL investigators have issued the Tollway three citations relating to performance and procedures arising from a traffic crash in January of 2014 involving a semi-truck which hit a Tollway vehicle and State Police cruiser, killing a Tollway worker and seriously injuring a State Trooper. The Tollway has strongly disputed two of the findings related to safety zones, and informal discussions and proposals for resolving have occurred, but further appeal to DOL General Counsel is likely going to be required.

Directors discussed workers’ compensation settlements.

General Counsel stated that both of the workers’ compensation matters of Joseph Colello and Ronald Lullo, as well as the proposed litigation settlement with Rosa

Martinez were negotiated by counsel and recommended for settlement. General Counsel noted that each of the negotiated settlements were below the expected range of potential litigation exposure.

A Director inquired if Mr. Lullo had returned to work. Staff responded that the employee had returned to light duty.

There being no further questions, at approximately 11:45 a.m., Chair Wolff 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
Christi Regnery
Board Secretary
Illinois State Toll Highway Authority

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE EXECUTIVE SESSION OF THE
REGULAR BOARD MEETING**

September 25, 2014

On September 25, 2014 at approximately 10:12 a.m., the Board of Directors met in Executive Session to discuss Tollway matters related to personnel matters, collective bargaining negotiation matters, real property acquisition, and litigation matters 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.]

Directors Present:

Chair Paula Wolff

Director James J. Banks

Director Terry D’Arcy

Director Earl Dotson, Jr.

Director David Gonzalez

Director Mark Peterson

Director Jeff Redick

Director Tom Weisner

Staff present for all or portions of the meeting:

Kristi Lafleur (Executive Director)

Mike Stone (Chief of Staff)

Mike Colsch (Chief of Finance)

Elizabeth Looby (Deputy General Counsel)

David Wilson (Sr. Asst. Attorney General)

Directors discussed collective bargaining.

Staff provided an update on the collective bargaining negotiations and the tentative agreement reached with the Service Employees International Union (“SEIU”), Local 73. Staff reported that the SEIU membership recently voted to ratify the agreement and staff is recommending the Board approve the terms of the Collective Bargaining Agreement with SEIU.

Staff addressed Directors’ questions, raised at the previous meeting, concerning the tentative agreement by distributing materials to Directors detailing the Tollway’s costs for the Blue Advantage Plan. Staff further confirmed that the Excise Tax on High-Cost Coverage (Cadillac Tax) does not go into effect until 2018, and that the Tollway is currently below thresholds of coverage defined by the legislation.

Staff then provided a summary of key terms of the Collective Bargaining Agreement that include a five-year contract term with roughly 2% annual wage increases, a doubling of the employee health insurance premium contribution by the final year (with exception of the Blue Advantage Plan), termination of the use of non-revenue transponders for commuting purposes with limited exceptions, and language modifications that address issues related to money room truck driver overtime.

A Director inquired concerning the accounting for the retroactive pay increases and, if accrued this year, whether the cost can be accommodated under existing budget allocations. Staff responded that the retroactive wage increases are expected to be accrued this year and that the costs are expected to be accommodated under current budget allocations due to favorable variances attributable to vacant positions and debt service payments. Staff noted that a request of the Board to provide for snow removal overtime and extra winter material costs stemming from the unusually severe winter may still be required.

Directors indicated their support of the resolution ratifying the Collective Bargaining Agreement with SEIU. Directors thanked staff for their efforts in achieving the agreement.

Staff then updated the Board on negotiations with the American Federation of State County Municipal Employees (“AFSCME”). Staff provided current collective bargaining negotiation objectives and requested of the Board their reaffirmation of goals relative to wage increases, employee healthcare contribution and transponder use. Discussion ensued regarding efforts and challenges to achieving similar Tollway negotiation objectives across the remaining labor agreements. The Board affirmed their support of the stated collective bargaining negotiation objectives.

A Director asked how many Tollway employees are represented by labor unions. Staff responded that there are approximately 570 employees represented by the SEIU, approximately 280 employees represented by AFSCME, approximately 440 employees represented by the Teamsters, and fewer than ten employees represented by the Metropolitan Alliance of Police (“MAP”) units.

Directors discussed a Department of Labor matter.

Staff provided background and updated the Board on a matter with the Illinois Department of Labor (“DOL”). The matter involves preliminary, but disputed, citations issued to the Tollway arising from a traffic crash in January of 2014 that resulted in the death of a Tollway worker. Deputy General Counsel reported this

matter has tentatively been resolved with the DOL in a way that will amend the citations and remove any suggestion that the Tollway has culpability for the accident. The language of the settlement agreement is being finalized but will emphasize training and the availability of safety materials in the field for all Tollway employees and other incident responders. Staff noted other issues still to be finalized center on what type of continuing “consultation” the DOL may require regarding safety practices.

A Director asked how long the proposed agreement with the DOL, if finalized, is required to be publicly posted by the Tollway. Staff responded three days.

A Director inquired about continuing investigations of the trucking company and pending litigation arising from the accident. Staff responded that litigation is pending, enhancing the importance of addressing the initial DOL findings.

Directors discussed litigation matters.

Staff, and particularly Deputy General Counsel, provided background and updated the Board on a wrongful termination claim made by former employees, husband and wife, that involved investigations conducted by the Office of Inspector General (“OIG”). Staff stated that one of these former employees has also filed a workers’ compensation claim.

Staff reported that the settlement demand recently made by the claimants is of a substantial amount. Staff provided possible precedent for damage awards and outlined potential Tollway loss exposure. Staff also provided an explanation of potential penalties allowed under whistleblower statutes.

Staff added that some portion of the civil litigation expense, or of a potential award should the claimants prevail, may be covered under Tollway insurance but this is yet to be determined.

A Director inquired if there were any drawbacks to potentially initiating settlement negotiations with the claimants. Staff responded that they were not aware of any drawbacks at this time.

A Director inquired about the facts of the workers’ compensation claim. Staff provided the circumstances of the injury claimed.

A Director asked if reinstatement is being sought or offered. Staff responded that it would only intend to recommend settlement without any reinstatement provision.

A Director inquired about the confidence of counsel in the Tollway's position in defense of the wrongful termination claim and counsel's perspective on the whistleblower aspects. Regarding whistleblower protection, counsel noted there is not strong evidence to firmly find plaintiff(s) were whistleblowers, but that legal thresholds in this area may not require a high degree of proof to allow a claim to proceed. Staff then provided an overview of the merits of the claims noting that the handling of the finding by the OIG may introduce vulnerabilities if the case proceeds to trial.

Additionally, there was discussion of the Tollway's current policy regarding secondary employment and the policy at the time of the claimants' dismissal.

A Director inquired as to settlement amounts anticipated if the Tollway decides to pursue a settlement agreement. Staff responded with an overview of strategies for potential settlement negotiations but stated that settlement figures have not yet been developed by counsel.

Staff requested input from the Board about how best to proceed in this matter. Discussion ensued regarding benefits of combining the workers' compensation and wrongful termination claims as part of any potential settlement, merits of the wrongful termination claim, and the anticipated timing of depositions subpoenaed in preparation for trial.

The Board recommended that staff initiate settlement negotiations with the claimants in an effort to explore the Tollway's options to satisfactorily resolve these matters.

Staff then provided background and updated the Board on the case of former employee, Mr. Joseph Caffarello, who filed a multi-count complaint against the Tollway, the Tollway Inspector General and State Representative Rita Mayfield. Staff stated that the Federal Court has dismissed all counts but for the count regarding discrimination based on national origin. This remaining count proceeds against the Tollway and Tollway Inspector General. Staff stated that the claimant's new attorney has indicated settlement is available for an amount, substantially less than the projected cost of defending a discrimination claim.

Directors and staff discussed the facts and merits of the case, litigation costs, case scenarios and risks, as well as options for proceeding.

A Director inquired about the Tollway's loss exposure should the plaintiff prevail in this matter. **Staff responded that this information would be provided.**

A Director inquired if the OIG carries separate civil litigation insurance or has other resources to address these legal matters independently of the Tollway. Staff responded in the negative.

Directors indicated that the matter requires further deliberation. The Directors stated that because action is required prior to the next Board or Committee meeting that senior management should deliberate further to determine the best course of action while keeping the Board informed.

A Director inquired about oversight over, and the term of, the Tollway's Inspector General ("IG"). Staff responded that the IG has a five year term and reports to the Board but is intended to operate independently. Staff added that the IG is appointed by the Governor and confirmed by the Illinois Senate.

Directors discussed land acquisition matters.

Staff updated the Board regarding land acquisition activities around O'Hare International Airport required for the Elgin O'Hare Western Access Project ("EOWA"), noting an upcoming meeting scheduled with O'Hare leadership regarding land acquisition.

Directors met with Executive Director Lafleur regarding personnel matters.

Directors met without Executive Director Lafleur regarding personnel matters.

There being no further questions, at approximately 11:22 a.m., Chair Wolff called for a motion to re-enter the public session of the Regular Board Meeting. Director D'Arcy made the motion; seconded by Director Peterson. The motion was approved unanimously.

Minutes taken by: _____ /s/ on original

Christi Regnery
Board Secretary
Illinois State Toll Highway Authority

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

October 15, 2014

On October 15, 2014 at approximately 10:15 a.m., the Committee of Directors met in Executive Session to discuss litigation matters involving the Tollway, pursuant to Section 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.]

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)

Jennifer Bugaj (Asst. Attorney General)

Directors discussed litigation matters involving the Tollway.

Staff provided background and apprised the Committee of the potential for settlement in the matter of James Kroupa v. Brian Elhenicky and Illinois State Toll Highway Authority related to an accident involving a Tollway snowplow truck. Staff recommended that the negotiated proposed settlement of up to \$150,000 be accepted.

A Director inquired about the circumstances that resulted in the accident occurring off of Tollway property. Staff responded that the Tollway snowplow truck driver was turning around, utilizing the prescribed route for the snowplow duties he was assigned, when the accident occurred.

A Director inquired if the Tollway driver is still employed by the Tollway. Staff responded affirmatively, noting that as a result of this incident a written warning was issued to the driver by his supervisor.

A Director asked if there have been additional incidents involving the Tollway driver since this accident. Staff responded that they are not aware of any subsequent incidents.

Directors discussed a workers' compensation settlement.

General Counsel provided a summary of the workers' compensation matter of Victor Storino. General Counsel provided the recommendation of outside counsel to settle this workers' compensation claim in an amount in the range of \$117,000 to \$130,000. General Counsel stated that a tentative settlement has been agreed upon with claimant's counsel for \$120,000 and recommended to the Committee that the proposed settlement be accepted.

A Director inquired if Mr. Storino is still employed with the Tollway. General Counsel responded affirmatively.

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

Minutes taken by: _____ /s/ on original

Christi Regnery
Board Secretary
Illinois State Toll Highway Authority

**THE ILLINOIS STATE TOLL HIGHWAY AUTHORITY
MINUTES OF THE EXECUTIVE SESSION OF THE
REGULAR BOARD MEETING**

October 23, 2014

On October 23, 2014 at approximately 10:35 a.m., the Board of Directors met in Executive Session to discuss Tollway matters related to personnel matters, real property acquisition, sale of securities, and litigation matters, pursuant to Sections 2(c)(1), 2(c)(5), 2(c)(7) 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.]

Directors Present:

Chair Paula Wolff
Director James J. Banks
Director Terry D’Arcy
Director Earl Dotson, Jr.
Director David Gonzalez
Director Mark Peterson
Director Jeff Redick
Director James Sweeney
Director Tom Weisner

Staff present for all or portions of the meeting:

Kristi Lafleur (Executive Director)
Mike Stone (Chief of Staff)
Mike Colsch (Chief of Finance)
David Goldberg (General Counsel)
Joanne Fehn (Land Acquisition Manager)

Directors discussed Land Acquisitions.

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 eight parcels on the EOWA report and one ownership change and the addition of one parcel on the I-90 report.

Staff updated the Board on land acquisition activities around O’Hare International Airport (the “Airport”) required for EOWA, reporting that several meetings have taken place with current Airport leadership regarding land acquisition.

A Director inquired about the timing of pending changes in leadership at the Airport. Staff responded that this information is not currently known.

Staff reported that work is being conducted on finalizing the Tollway's two appraisals of the proposed land acquisition. Staff stated that the appraisers have both developed an opinion of market value in the \$35-\$40 million range and, once finalized, these appraisals will be submitted for review by the Review Appraiser. Staff noted that the Airport is likely to be seeking compensation in excess, perhaps multiples, of these appraisal amounts but that the Tollway's position will be to attempt to negotiate a price settlement near these appraisal amounts.

A Director inquired concerning the basis used by the Airport in developing their asking price. Staff responded that the compensation amount the Airport is seeking for the currently unimproved property is based on their original appraisal cost and other factors. Staff noted, however, the original appraisal costs were costs of acquiring improved property. Staff added that more information regarding the Airport's basis for price development is expected as negotiations progress.

Staff stated that both parties are public agencies and presumably the construction of EOWA is of benefit to the Airport and the public, and it is therefore hoped that this distinction will be relevant to assessing costs.

Directors discussed an SEC matter.

Staff provided an update on developments related to the Securities and Exchange Commission's ("SEC's") Municipalities Continuing Disclosure Cooperation ("MCDC") initiative for municipal securities. Staff conveyed that the main recent development was learning that one senior underwriter (of a pool of eight) intends to report on the Tollway under MCDC. Their report will relate to statements the Tollway made in 1998 bond documents as to when audited financial statements would get published.

Staff reported that the Tollway Law Department, as well as two outside firms that advise the Agency on bond matters, continue to maintain that identified Tollway issues are not required to be reported as part of MCDC.

General discussion then followed about certain features of MCDC, as understood by Tollway staff, what other toll industry players may be doing under the initiative, and a reminder from staff that bond issuers shall report by December if opting to file under MCDC.

Staff also noted that they intend to further update the Board in November with any additional recommendations or developments relevant to final determinations before the reporting deadline.

A Director requested confirmation that the wording of the MCDC has remain unchanged and that the SEC is only seeking self-reporting of instances where issuers may have “materially” misrepresented compliance with disclosure requirements. Staff confirmed.

Directors discussed a Department of Labor matter.

Staff provided background and an update to the Board on a matter with the Illinois Department of Labor (“DOL”). The matter involves three citations issued to the Tollway relating to performance and procedures arising from a traffic crash in January of 2014 that resulted in the death of a Tollway worker. Staff reported that the Tollway has reached a consent decree with the DOL whereby the Tollway has agreed to provide streamlined protocol materials, for ease of use, to field workers, and additionally to provide Class-3 reflective safety vests to all field workers assigned hours after dusk.

Directors discussed litigation matters.

Staff provided background and an update on the case of former employee, Mr. Joseph Caffarello, whose complaint, with a single remaining count regarding discrimination based on national origin, proceeds against the Tollway and Tollway Inspector General (“IG”).

Staff recommended, upon advice of outside counsel and the General Counsel, settlement in the amount of \$15,000 to be paid directly to the claimant’s attorney. Staff stated that the Tollway is confident in their ultimate defense against the claim but resolving on these terms offers value to the Tollway by avoiding the substantial costs and discovery processes to defend a discrimination claim. Staff added that a privileged memo from outside counsel enumerating the potential costs of litigation and the Tollway’s loss exposure has been received and is on file.

A Director inquired regarding the current status of the case. Staff responded that the Tollway was granted a 30-day extension to consider the settlement demand and that action will be required in November.

A Director inquired what portion of the settlement the claimant is to receive. Staff responded that intentions for division of the settlement are not known.

A Director asked for confirmation that the claimant would not be offered reinstatement as part of the settlement. Staff confirmed.

A Director asked for confirmation that the settlement terminates claims against both the Tollway and the IG. Staff confirmed.

A Director inquired whether there is a point where defending against meritless legal claims, despite litigation costs, provides value to the Tollway in discouraging nuisance suits. Staff concurred that consideration of such points is a factor in some situations, though the instant matter has unique aspects and should be viewed independently in counsel's judgment.

General Counsel added that the Tollway has a strong record of successfully defending against meritless legal claims, although these matters are not always brought before the Board due to lower dollar amount, court dismissal, or other successful disposition.

Staff suggested that the Board might find informative a briefing on the Legal department's summary of pending cases, including reporting on the successful disposition of recent cases.

Discussion ensued regarding aspects of the instant matter that involved an underlying IG report, and how such reports can impact litigation approaches.

General Counsel stated that no formal action is required from the Board due to the dollar amount, but asked for the endorsement of the Board to move forward with settlement. The Board expressed their sentiment in favor of accepting the proposed settlement in this matter.

Directors met with Executive Director Lafleur regarding personnel matters.

Directors met without Executive Director Lafleur regarding personnel matters.

There being no further questions, at approximately 11:12 a.m., Chair Wolff called for a motion to re-enter the public session of the Regular Board Meeting. Director Peterson made the motion; seconded by Director Weisner. The motion was approved unanimously.

Minutes taken by: _____ /s/ on original

Christi Regnery
Board Secretary
Illinois State Toll Highway Authority