



Board of Directors – Full Board Closed Session Meeting Minutes

Date: October 31, 2019
Time: 10:45 am

Location: NCDOT (6th floor Board Room)
1 S. Wilmington St. Raleigh NC 27601

Attendance

Members Present

Secretary Trogdon, Chair
Robert Teer
Montell Irvin
Jim Crawford
Scott Aman
Jim Walker

Members Present Via Phone

Charles Travis

Members Absent

Perry Safran

Call to Order

Secretary Trogdon, Chair

Discussion Summary

Secretary Trogdon called the meeting of the North Carolina Turnpike Authority Board of Directors to order and read the non-conflict statement during the open session. Secretary Trogdon informed the members of the Board that they will be transitioning into a closed session.

The Chairman noted the following staff members, legal counsel and consultants may remain in the room or on the call for the closed session: JJ Eden, Ebony Pittman, David Roy, Kate Trimble, Ann Dishong, Evan Rodewald, Wally McBride, Mary Nash Rusher, David Miller, Rodger Rochelle, and Kent Lawrence.

The remaining staff, guests and consultants were asked to exit the room.

A separate conference call line was provided for the closed session to ensure confidentiality. Board member Travis, Wally McBride, and David Miller were the only participants on the call throughout the closed session.

Actions Taken

No action taken.

Closed Session: Pursuant to NC General Statute §143-318.11(a)(3)

Secretary Trogdon, Chair

Discussion Summary

Secretary Trogdon called for a motion to move into closed session per North Carolina General Statute 143-318.11 to “consult with an attorney . . . in order to preserve the attorney-client privilege between the attorney and the public body” as permitted pursuant to subsection (a)(3).

Actions Taken

Board member Teer made a motion to enter closed session, seconded by Board member Irvin. The Board voted unanimously to enter closed session.

Secretary Trogdon called the closed session to order. He invited David Roy to introduce the subject.

Complete 540 Financing to the Local Government Commission Discussion

Discussion Summary

Discussion ensued among members of the Board, legal counsel, and staff related to a draft, proposed resolution provided from the Local Government Commission (LGC) to the Turnpike Authority relating to the Complete 540 financing. The LGC is scheduled to vote on the Complete 540 financing on Tuesday, November 5, 2019. The proposed resolution provided to the Turnpike Authority from the LGC contained new language never seen before that was concerning to legal counsel and members of the Turnpike staff.

Legal counsel and Turnpike staff outlined their concerns with members of the Board providing focus specifically on section 8(f) of the proposed LGC resolution document, which reads:

(f) Notwithstanding any other provision of this resolution, the Chairman of the Commission, the Secretary of the Commission or any Designated Assistant is hereby authorized to withhold the Commission's approval of the sale of the Series 2019 Revenue Bonds or the Series 2019 Appropriation Bonds at or prior to the time of sale if he or she determines that an event or circumstance has occurred or information has become known that, in his or her judgment, makes the findings and determinations by the Commission in this resolution no longer accurate. In addition, if after the sale of the Series 2019 Revenue Bonds or the Series 2019 Appropriation Bonds and prior to the issuance thereof the Secretary of the Commission determines that an event or circumstance has occurred or information has become known that, in his judgment, makes the findings and determinations by the Commission in this resolution no longer accurate, the Secretary shall not certify that the issuance of Series 2019 Revenue Bonds or the Series 2019 Appropriation Bonds has been approved under the provisions of the Revenue Bond Act as required for the issuance of such Bonds by G.S. 159-129. Upon the occurrence of any such event, the Chairman of the Commission, the Secretary of the Commission or the Designated Assistant, as the case may be, shall refer the matter to the Commission for further consideration of its approval in light of such event or information.

Legal counsel for the Turnpike Authority and members of the Turnpike staff shared it is the opinion of the State Treasurer's staff and the Treasurer's legal counsel that they have the authority to rescind previous approvals with or without section 8(f) of the draft proposed resolution. However, Turnpike legal counsel and members of the Turnpike staff noted for members that specifically for this transaction the verbiage was added concretely. Legal counsel for the Turnpike Authority does not agree with the interpretation and reviewed this with members of the Board. The overarching concern expressed to members of the Board is the interpretation of authority presented by the State Treasurer's staff and legal counsel. As stated in section 8(f), the State Treasurer's staff and legal counsel believe "*the Secretary of the Commission or any Designated Assistant is hereby authorized to withhold the Commission's approval of the sale of the Series 2019 Revenue Bonds or the Series 2019 Appropriation Bonds at or prior to the time of sale if he or she determines that an event or circumstance has occurred or information has become known that, in his or her judgment, makes the findings and determinations by the Commission in this resolution no longer accurate.*" Legal counsel for the Turnpike Authority, members of the Turnpike staff and members of the Board discussed the criticality of implications if this occurred.

Actions Taken

No action was taken in closed session.

Return to Open Session **Secretary Trogdon, Chair**

Discussion Summary

Secretary Trogdon asked for a motion to adjourn the closed session and return to open session.

Actions Taken

Board member Teer made a motion to conclude the closed session, seconded by Board member Aman. The Board voted unanimously to exit closed session and re-enter open session.

Open Session Resumes – **Secretary Trogdon, Chair**

Discussion Summary

The doors to the meeting room were opened; all staff and guests were invited to return to the meeting room.

The public conference call line was reactivated and live.

Secretary Trogdon noted the meeting was formally back in open session.

Secretary Trogdon stated for the record that no votes were taken in closed session.

Secretary Trogdon continued the meeting agenda in open session.

Actions Taken

None taken.