

RI UST Review Board  
February 9<sup>th</sup>, 2006

**Quorum**

The Board meeting, held at 235 Promenade Street; Suite 455; Providence, was called to order by Chairman Gray at 12:07 pm. Members present were Commissioners Conti, Boisselle, Unsworth, Allienello, DeBlois and Pallozzi. Staff present were Michaela K. Brockmann; Executive Director, Jim Robison; claims analyst, Thomas Lazieh, and Lori Cirella. Also present was Richard Kirby; Legal Counsel.

**Approval of Previous Meeting Minutes**

Commissioner Boisselle moved to amend the December 1<sup>st</sup>, 2005 meeting minutes to strike the words recused herself and amend it to read abstained. The motion was seconded by Commissioner Beaudette and all those present moved to approve the amended minutes.

**Executive Director's Report**

Ms. Brockmann stated that there was a fund balance at the end of January of \$2,270,294.97 and that the amount requested for the March meeting was \$945,420.74.

**Chairman's Report**

Chairman Gray stated that there were several issues that he had to report upon. The first issue he discussed related to the two million dollars that the budget office was seeking to obtain for the general fund. Commissioner Gray commented that while overtures had been made with the budget office to discuss the issue, not much progress had been made. He stated further that it was likely that the budget office would simply not provide the fund with the revenue received by the tax. Discussion followed regarding the impact on the Fund and the Department of Environmental Management as a result of the Federal Energy Act and the Transportation Act. There was further discussion as to communicating this issue to EPA. Chairman Gray suggested that a formal communication be made to the Budget Office from the Board stating the Board's concerns. A motion was made by Commissioner Beaudette that a letter be written to the Budget Office outlining firstly, the concern that the removal of the funds could impact the viability of the fund, secondly, it could impact the fund's ability to serve as a legal replacement for private insurance, and lastly, the removal of the funds could impact the Board's ability to conduct its operations. Commissioner Conti seconded the motion and all those present voted in the affirmative.

Secondly, Chairman Gray addressed the Governor's proposed budget article, article 27, that would incorporate the fund into the Department of Environmental Management. The budget article basically shifts the administration of the fund to the Department; however, the Board would still be in existence. Additionally, the article has language that would allow the fund to work proactively to prevent releases. Article 27 also adds the word substantial to the definition of compliance. Lastly, it removes any language related to the Fund's ability to assess fees. Discussion followed that the eligibility requirements for claimants would remain the same. Additionally, concern was voiced regarding the Fund's ability to dispense funds quickly. There was also concern over the issue of the staff working for the Department, but answering to the Board as well.

**Training Program**

Ms. Brockmann stated that as required by the state law, the interim training program that the Board adopted in December was presented to Commissioner Unsworth. Commissioner Unsworth stated that he found the program to be viable. Commissioner Boisselle moved that the interim program be adopted, it was seconded by Commissioner Allienello, and all those present voted in the affirmative.

**Recap of Pending Appeals**

Ms. Brockmann stated that there were two cases being appealed before the Board, Exxon Mobil (RFR#223) and Avila Brothers. She reported that both appeals were delayed as a result of separation of powers. She explained that the issue of Exxon Mobil was one regarding the resubmittal policy and the Avila Brothers claim was being appealed based upon an interpretation of the time frame of their releases and the adoption of the regulations. Chairman Gray added that Bristol Warren has made an appeal; however, it would not be heard at the March meeting. Richard Kirby, legal counsel, explained that the appeal would be considered per the Administrative Procedures Act. Commissioner DeBlois then

moved that a hearing be scheduled to hear both appeals on March 16<sup>th</sup>, 2006. Commissioner Boisselle seconded the motion and all those present voted in the affirmative.

### **Personnel Subcommittee**

Commissioner Boisselle stated that she and Commissioner Unsworth spent a great deal of time reviewing and revising the personnel policy. She further stated that the manual should not be constituted as a contract between the Board and any staff. She then went into the specifics of the manual. She added that all state and federal laws were instituted. Chairman Gray then asked that members of the Board and staff be allowed to submit comments on the policy for the subcommittees review.

### **Benefits**

Chairman Gray went over a report provided to the Board by Mr. Borah, a benefits expert. Chairman Gray stated that Mr. Borah recommended a co-share in both the health and dental insurance. Mr. Borah also stated in his report that the employees could benefit from a group life insurance plan. Mr. Borah made mention of the state TDI program and recommended that that continue. Mr. Borah also recommended the Board to look at some type of long term disability insurance. The report also went on to recommend that employees continue to participate in a simple IRA plan. And lastly, the report recommended some type of flexible spending account be instituted. Chairman Gray and Commissioner Allienello asked the Board to look into each of these issues.

### **Retirement**

Chairman Gray went through the three issues of the retirement, the period of time that employees thought they were participating in the state retirement, the period of time that there was no participation in any retirement plan, and any interest that would have been gained from either. In essence, he explained that the issue arose when the Board first became a public entity and a result of becoming a quasi-public entity, there was a gap in retirement. He then explained to the Board that Ms. Brockmann spoke with Jeff Wadovick, auditor, and had him calculate some scenarios. Chairman Gray explained that he would recommend the Board to look at the scenario in which the employees would have been contributing to a simple pension plan and then provide a three percent cost of living adjustment to compensate for the lost earning power of that money. He added that Mr. Wadovick calculated the cost of taxes and backed his calculation out as a result of those costs. Commissioner DeBlois then made a motion to accept the calculation based upon the \$16,000 figure and the model for the calculation of the three percent that the withheld retirement monies potentially could have earned. This model was provided by Mr. Wadovick. Commissioner DeBlois further added that a check be cut to the employees. Commissioner Beaudette seconded the motion. All those present voted in the affirmative.

### **Purchasing Policy**

Ms. Brockmann stated that a policy was drafted by Peter D'Orsi, CPA. This draft took into consideration all state laws and purchasing requirements. The policy was given to the Board members for comment.

### **By-Laws**

Chairman Gray stated that he and Commissioner Boisselle started to work on the by-laws and he invited Board members to provide them with any information they deem important for the construction of the by-laws.

### **Nominating Committee**

Commissioner Allienello nominated Commissioner Boisselle as Chairman. The motion was seconded by Commissioner DeBlois. He also thanked Chairman Gray for his work. There was no further discussion a vote was taken. Commissioner Gray abstained and all the remaining members voted in the affirmative and the motion carried.

Commissioner Boisselle then stated she would work closely with Commissioner Gray and the Board to work through the ongoing issues.

Commissioner Beaudette asked about any legal requirements necessary for any Board member to testify regarding any pending legislation related to the Board. Mr. Kirby stated that no Board member would be violating any Ethics laws by testifying.

### **Old Business**

There was no old business.

**New Business**

Chairman Gray asked that Commissioner Matheson and Commissioner DeBlois be recognized formally with a plaque for their years of service to the Board. He added his thanks and entertained Commissioner Baeudette's motion that money be allocated for the purpose of creating a plaque. Commissioner Conti seconded the motion and all those present voted in the affirmative. A vote was taken, Commissioner DeBlois abstained and all the remaining members voted in the affirmative.

Chairman Gray then welcomed a pending member to the Board, Art Hurley. Commissioner DeBlois added that Mr. Hurley was highly regarded in the petroleum industry.

**Adjournment**

At 2:21 pm, Commissioner Beaudette made a motion to adjourn. The motion was seconded by Commissioner DeBlois and all those present voted in the affirmative.

Respectfully Submitted By,

Michaela K. Brockmann  
Executive Director

APPROVED