

**Delaware River Port Authority
Minutes
and
Index
August Special Board Meeting
Wednesday, August 25, 2010**

Unfinished Business

- DRPA-10-040** (Amending 10-040 Adopted August 18, 2010) Requiring the Authority Permit the New Jersey Comptroller's Office to Conduct Such Audits As It May deem Appropriate, and to Create an Audit Committee Chaired by the Auditor General of Pennsylvania Which Will Oversee an Independent Financial, Performance and Forensic Audit Every Two (2) Years
- DRPA-10-041** Requiring All Meetings of the Authority Board be Open to the Public and Requiring the Authority to Follow the Requirements of the Pennsylvania Right to Know Law and the New Jersey Open Public Records Act (Amended)
- DRPA-10-045** Requirement that All Vendors of the Authority Disclose Political Contributions
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Adjournment

MINUTES of the Special Board Meeting of the DELAWARE RIVER PORT AUTHORITY held Wednesday, August 25, 2010 in the Board Room at One Port Center, Camden, NJ.

Present

PENNSYLVANIA

John Estey, Chair
Jack Wagner
Robert W. Bogle
Robert McCord
John Dougherty
Robin Wiessmann
Frank DiCicco
Maria Quinones Sanchez

Officers & Chiefs

J. Matheussen, CEO
R. Box, PATCO, General Manager
R. Brown, General Counsel &
Assistant Corporate Secretary
R. Gross, Deputy CEO
J. Hanson, CFO
T. Brown, CAO (absent)
T. Pulte, COO
M. Venuto, Acting Chief Engineer

DRPA Staff

M. D'Alessandro, Asst. to Chairman
F. DiCicco, Administrative Coordinator
A. DuVall, Executive Assistant to CEO
J. Egan, Project Manager, Special Projects
T. Garrison, Administrative Coordinator, Customer
Service/Community Relations
S. Gray-Newman, Administrative Coordinator
D. Hunter, Manager, Corporate Communications
K. Jacobson, Assistant General Counsel
E. Kasuba, Director of Corporate Communications
C. Maroney, Manager, Special Projects
S. Milner, Administrative Coordinator
M. Mondile, Manager, Customer & Community Relations
F. O'Brien, Manager, Customer & Comm Rel.
R. Only, Director, Homeland Security & Emergency
Management
O. Parker, Manager, Financial & Budget Analysis
J. Quinn, Director of Revenue

NEW JERSEY

Jeffrey L. Nash, Vice Chair
E. Frank DiAntonio (via phone)
Richard Sweeney
Albert F. Frattali
Charles Fentress
Rick Taylor (absent)
Tamarisk Jones
Denise Y. Mason

Counsel

C. Gibson, Archer & Greiner, NJ Counsel
A. Kessler, Duane Morris, PA Counsel
S. Kosta, Duane Morris, PA Counsel

Others:

D. Gramiccioni, Gov. Authorities Unit
M. Tully, Gov. Authorities Unit
J. Lisko
R. Teplitz
P. Nissan of Acacia
C. Clupper of PFM
C. Blackshear, webcasting
E. McBride
A. Levy, Esquire
J. Lawless

DRPA Staff (Con't.)

W. Shanahan, Director Gov. Rel. & Grant Admin.
C. Spicer, PATCO Assistant General Manager
J. Stief, Public Safety
J. White, Director of Finance
D. Whiton, Administrative Coordinator

The Assistant Corporate Secretary announced that public notice of this Special Board Meeting was posted in the lobby at One Port Center and provided to representatives of the area news media. Mr. Brown then called the roll and announced that a quorum was present.

Chairman Estey deferred to Mr. Matheussen who indicated that the Authority hosted a specially trained elite Navy Seals Unit this past year where we had the privilege of meeting one of the Navy Seals, Chief Special Warfare Operator Collin Thomas. He reported that, sadly, the Authority recently learned that Collin Thomas lost his life last week in Afghanistan in service to our country. Mr. Matheussen asked all of us to remember Mr. Thomas and his family for his dedication and sacrifice during our moment of silence.

Mr. Matheussen stated that yesterday the FTA came in to perform their triennial review of all federal grants and a FTA compliance officer reviewed twenty-two areas of compliance. The Authority was compliant in twenty-one of the twenty-two areas including finance, maintenance, project planning, Americans with Disabilities Act, safety and security, maintaining a drug free workplace, and all EEO requirements. The standard is usually around three to five omissions. The reviewer found only one omission that was in the technical area such as providing sufficient report detail about schedules. Mr. Matheussen thanked Howard Korsen, who headed up the team, along with Linda Hayes and the rest of the staff who were involved, and congratulated them on an outstanding job on the FTA review.

Unfinished Business

Item 1 – (Amending 10-040 Adopted August 18, 2010) Requiring the Authority to Permit the New Jersey Comptroller’s Office to Conduct Such Audits As It May deem Appropriate, and to Create an Audit Committee Chaired by the Auditor General of Pennsylvania Which Will Oversee an Independent Financial, Performance and Forensic Audit Every Two (2) Years – Chairman Estey reminded Commissioners that this is the start not the end of a process. He called consideration of a proposal to amend 10-040.

On Motion duly made and seconded, the following Resolution was unanimously adopted and made the action of the Authority:

DRPA-10-040	(Amending 10-040 Adopted August 18, 2010) Requiring the Authority to Permit the New Jersey Comptroller’s Office to Conduct Such Audits As It May deem Appropriate, and to Create an Audit Committee Chaired by the Auditor General of Pennsylvania Which Will Oversee an Independent Financial, Performance and Forensic Audit Every Two (2) Years
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Item 2 – Requiring All Meetings of the Authority Board be Open to the Public and Requiring the Authority to Follow the Requirements of the Pennsylvania Right to Know Law and the New Jersey Open Public Records Act (Amended) – Chairman Estey then called for consideration of a motion to amend 10-041 dealing with the Pennsylvania and New Jersey right to know laws. Commissioner McCord urged that a policy to be developed by staff with counsel would include the provisions of that state law that is stricter on any point where the state

laws differ. It was also agreed that the Policy to be developed by staff with counsel will be brought back to the Board for approval.

On Motion duly made and seconded the Resolution was adopted. Commissioner McCord wanted noted in the Minutes that the final policy should reflect the stricter of the two state laws.

DRPA-10-041 Requiring All Meetings of the Authority Board be Open to the Public and Requiring the Authority to Follow the Requirements of the Pennsylvania Right to Know Law and the New Jersey Open Public Records Act (Amended)

Item 3 - Requirement that All Vendors of the Authority Disclose Political Contributions – Chairman Estey then called Resolution 10-045 calling for disclosure of political contributions by DRPA vendors. Commissioner Sanchez asked whether this would apply to existing contractors; Chairman Estey and CEO Matheussen responded that the rule would be prospective only, it will be in bid documents. Commissioner Wagner asked that the Board receive a list of vendors and CFO Hanson responded that staff can produce the list.

On Motion duly made and seconded, the Resolution was adopted.

DRPA-10-045 Requirement that All Vendors of the Authority Disclose Political Contributions

Item 4 - Establishing a Policy Eliminating All Monetary Contributions to Charitable and Civic Organizations and Establishing a Procedure Requiring Board Approvals for Any In-Kind Contributions to Charitable and Civic Organizations - The Chair then called Resolution 10-053 dealing with charitable contributions. CEO Matheussen explained that the Board created a Committee to review charitable solicitations back in 2004 and discussed the Community Giving Fund application process. Commissioner McCord and then Commissioner DiCicco both felt that allowing charitable contributions was inconsistent with our decision last week to ban economic development spending. A full discussion followed participated in by Chairman Estey, Vice Chairman Nash, Commissioners Dougherty, Wagner, DiCicco, Bogle, McCord, Wagner, and Fentress. The discussion focused on whether to permit “in kind” contributions such as are part of the various “Bridge runs” used for charitable fund raising.

On Motion duly made and seconded, the Board approved a resolution that would ban financial contributions to charities and civic organizations but permitted “in kind” contributions subject to advance Board approval.

DRPA-10-053 Establishing a Policy Eliminating All Monetary Contributions to Charitable and Civic Organizations and Establishing a Procedure Requiring Board Approvals for Any In-Kind Contributions to Charitable and Civic Organizations

Item 5 - Establishing a Policy Prohibiting Officers and Employees from Performing Political Activities While On Duty for the Authority or Using their Office for Political Purposes - The Chair called 10-054 relating to political activity and noted that he believed there

was to be some more work done on this Resolution. Commissioner McCord stated that his office sent out a revised version of this on Aug. 23rd; he summarized the Resolution changes as being a one year ban and those who own less than 5% of the stock of a publicly traded company are exempt. Chairman Estey pointed out that Commissioner McCord's Resolution of 8/23/2010 addressed a different issue. The Chair, Vice Chair, Commissioner Dougherty, Sanchez, Fentress, Bogle, and DiCicco engaged in a full discussion of the topic. Commissioner DiCicco asked how "Elected Official" would be defined. The Chair suggested that it would be appropriate to establish an informal committee to consider how this might affect elected officials and asked Commissioner DiCicco to take the lead. Chairman Estey proposed a revised Resolution that would (i) remove the reference to "Commissioners" in the current Resolution and upon Motion duly made and seconded the Resolution was approved.

Chairman Estey remarked that Commissioners are as important, if not more important, than staff in this Resolution, and called on an informal committee composed of all Commissioners who are elected officials, plus any other Commissioner who wishes to participate to consider how this Resolution would affect elected public officials and to report back to the Board at their earliest convenience.

Commissioner Dougherty reminded the meeting that there were lots of questions to be answered.

Commissioner Wiessmann joined the meeting in progress.

DRPA-10-054 Establishing a Policy Prohibiting Officers and Employees from Performing Political Activities while on duty for the Authority or Using their Office for Political Purposes

Item 6 - Establishing a Policy Prohibiting Undue Influence By Commissioners, Officers and Employees - The Chair called Resolution 10-055 relating to undue influence. Chairman Estey, Vice Chair Nash, Commissioners Fentress, DiCicco, Wagner, Sanchez, McCord, Dougherty and Bogle discussed the matter at length focusing on the difficulty of defining terms such as "undue" and "appearance". Vice-Chairman Nash reminded the meeting that we have a public trust issue and the Chair noted that there seem to be three separate concepts being discussed; adopt as drafted, adopt after removing "appearance", or require disclosure. After further discussion, the Chair proposed the following resolution:

If any Commissioner, Officer or employee of the Authority reasonably believes that he or she is involved in, or may become involved in, a situation as either the actor or the recipient of action, wherein undue influence might be exerted on someone, the said Commissioner or Employee is to report that situation to someone at the Authority.

On Motion duly made and seconded, the following resolution was adopted and made the action of the Authority:

DRPA-10-055 Establishing a Policy Prohibiting Undue Influence By Commissioners, Officers and Employees

Upon being asked for clarification about who would receive the report, Chairman Estey responded, "for now, General Counsel".

The Chair then asked that the Board defer Resolution 10-065 and asked for a motion that the meeting go into Executive Session in order to discuss personnel matters. Commissioner Dougherty opposed the motion to go into Closed Session. Chairman Estey stated that Closed Session was necessary (1) for the protection of the DRPA and (2) for the confidentiality of the employees involved.

The Motion was duly seconded and approved.

The Board went into Closed Session. The Board resumed the open portion of the meeting at 2:00 PM.

Item 7 – Consolidation of Corporate Secretary Function -

The discussion was held in Closed Session. The Chair then called Resolution, DRPA-10-059.

Auditor General Wagner stated that he was concerned about taking this action for the reasons already discussed in the executive session, but for the purpose of the open session was limiting his comments to expressing serious concerns about the cost that this action would impose on the authority in terms of likely litigation.

On Motion duly made and seconded, the following resolution was adopted and made the action of the Authority:

Commissioners Wagner, McCord, Dougherty and Fentress voted “No”.

DRPA-10-059 Consolidation of Corporate Secretary Function

Item 9 – Elimination of the Position of Assistant to the Chairman –

The discussion was held in Closed Session.

The Chair then called Resolution 10-066 relating to the position of Assistant to the Chair. The Chair asked to amend the Resolution to continue the position for 60 days due to ongoing matters on which the Assistant to the Chair is working. Commissioner Wagner said he was ready to vote on an overall reorganization plan but did not think the public wanted us to do this one at a time. Commissioner Dougherty said he would vote yes but felt there needed to be a game plan.

The Chair called the vote and, upon Motion duly made and seconded, the Resolution was adopted.

Commissioners Wagner and McCord voted “No”.

DRPA-10-066 Elimination of the Position of Assistant to the Chairman

Item 8 – Board Action Relating to Current Toll Discount Programs -

The Chair called Resolution 10-065 relating to the toll schedule. CEO Matheussen began with a summary of the current budget situation. Mr. Matheussen and, shortly thereafter, CFO Hanson indicated as of June we are \$6.5M under expenses and \$1M off in anticipated revenue, leaving

us, if the trends continue, \$5.5M to the good right now. Mr. Matheussen then asked Acting Chief Engineer Mike Venuto to discuss the Capital Program status. The CEO then called on CFO Hanson who introduced Finance Director Jim White and Financial Advisors Pete Nissen and Cathy Clupper. The Finance team handed out materials to the Board and went through a detailed explanation of the status of the DRPA Bond rating, the manner in which the Rating Agencies view the DRPA and the implications in the event that the DRPA acts to defer the scheduled actions relating to the toll schedule resulting in a revenue reduction. They also explained the implications if the DRPA Bond rating is reduced. A copy of the materials distributed to the Board is attached to these Minutes. Chairman Estey, Vice Chair Nash, Commissioners McCord, Sanchez, Dougherty, Bogle and Wiessmann engaged in a thoughtful discussion of the topic. COO Pulte mentioned that we also need to address the Senior Citizen ticket book question. Mr. Hanson emphasized, as did the Financial Advisors, that the key issue for the Rating Agencies is and has been the nature of Board Governance at the DRPA. Now that the Board has acted to further consolidate Board control by, among other things, requiring that the Board approve all contracts, the Rating Agencies will be even more focused on Board performance.

On Motion duly made and seconded, Resolution 10-065 was adopted.

Commissioner Wiessmann voted "No".

DRPA-10-065 Board Action Relating to Current Toll Discount Programs

New Business

Item 1 – MS150 City to Shore Bike Tour, Support Services -

The Chair announced that the meeting would now move to New Business and called Resolution 10-067 dealing with the MS 150 City to Shore fund raising event that will use DRPA property. Mr. Box explained the event and its history.

On Motion duly made and seconded, the Resolution was adopted.

Vice Chair Nash, who has signed up to participate in the event, recused himself.

DRPA-10-067 MS150 City to Shore Bike Tour, Support Services

Item 2 – License Agreement with Philly RORO, LLC to Store Vehicles Under WWB – COO

Pulte requested the Board to authorize staff to enter into a license and indemnification agreement for the purpose of storing vehicles on DRPA property located beneath the WWB in connection with its vehicle import business. The utilization of this DRPA property by Philly RORO, LLC would yield an annual fee of \$117,000.00. The term of this agreement would be five years with a right to terminate the agreement for the convenience of the Authority without cause.

On Motion duly made and seconded, the following resolution was unanimously adopted and made the action of the Authority:

DRPA-10-068 License Agreement with Philly RORO, LLC to Store Vehicles Under WWB

Item 3 – DRPA Construction Contract Requirements – The Chair asked that DRPA-10-069 be tabled until the September Board Meeting.

Item 4 – Appointing Members of the Audit Committee Established By DRPA-10-040 - The Chair then called Resolution 10-070; naming members for the DRPA Audit Committee to be Chaired by the Pennsylvania Auditor General. Vice Chair Nash and Commissioner Sanchez agreed to serve on the Committee.

On Motion duly made and seconded, the following resolution was unanimously adopted and made the action of the Authority:

**DRPA-10-070 Appointing Members of the Audit Committee Established
By DRPA-10-040**

Item 5 – Appointing Members of the Compensation Committee Established By DRPA-10-050 Resolution 10-071 was then called to select members for the DRPA Compensation Committee. Commissioner McCord will serve as Chair, and Commissioners Frattali, Bogle and Fentress joined the Committee.

On Motion duly made and seconded, the following resolution was unanimously adopted and made the action of the Authority:

**DRPA-10-071 Appointing Members of the Compensation Committee
Established By DRPA-10-050**

Item 6 – Restriction or Prohibition of Political Contributions By DRPA or PATCO

Vendors The Chair asked Commissioner Wiessmann to introduce Resolution 10-072 dealing with the prohibition of certain political contributions by DRPA vendors. In response to a question, Commissioner Wiessmann clarified that this would be prospective only. Commissioner Wiessmann responded to questions from Chairman Estey, Vice Chairman Nash, Commissioners Dougherty, McCord, Bogle and Wagner. Chairman Estey expressed his concern that many current DRPA vendors, such as large Engineering firms, would be disqualified. Vice Chair Nash noted that we are being asked to approve a Resolution that will require development of a policy and asked that the Board be given the policy to review. He also suggested that we have the Governor’s Office (NJ) and others on staff evaluate the actual policy once it is drafted. Chairman Estey asked that someone consider whether the Supreme Court might view this policy differently from the investment banking policy which they approved earlier in view of recent Supreme Court rulings in the political contribution area. Chairman Estey also asked that the CEO poll DRPA vendors who have received work in excess of \$1 million in the past three years or so to see whether they have made political contributions in the past three years that would disqualify them. Commissioner Wiessmann asserted that this was the wrong question, we should ask whether the contractors would still seek DRPA business if we adopted this policy. Vice Chair Nash pointed out that New Jersey has a much praised policy against ‘pay to play’ and we should also look at that as an option.

The Chair asked that the matter be tabled until next month and the Board agreed.

Item 7 – Financial Interests and Employment of Commissioners, Executive-Level Employees and Families –

The Chair then asked Commissioner McCord to discuss the Resolutions that he has proposed; numbers 10-073, 074 and 075.

Resolution 10-073 dealing with the financial interests and employment of Commissioners, Executive-level employees and families was tabled.

Item 8 – Financial Interests of Commissioners, Executive-Level Employees and Families –

Resolutions 10-074 dealing with the financial interests of Commissioners, Executive-level employees and families was tabled.

Item 9 – Partial Suspension of DRPA 10-044 and 10-046 – Resolution 10-075 would suspend Resolutions 10-044 and 10-046 adopted last week in order to expedite commencement of an investigation into the “True Up” and the conduct of a forensic and performance audit of the DRPA. Vice Chair Nash suggested that the New Jersey Comptroller could assist but Commissioner McCord felt that it was preferable to have someone do the work who is not a political figure or appointee. CFO Hanson stated that he had hoped to work with the Audit Committee to develop a scope for these projects and to begin the process of hiring firms to perform the work. Commissioner McCord was happy to accept this offer. There was further discussion among Chairman Estey, Vice Chair Nash, Commissioners McCord, Wiessmann, Dougherty, DiCicco Bogle. The final decision was that the Chair instructed staff to expedite this process, working with the Audit Committee so that a recommendation can be made to the Board regarding who should undertake this work within 30 days.

The Resolution was tabled.

Commissioner Dougherty then stated that there are bigger issues regarding the “True Up” and produced some documents. The Chair asked Commissioner Dougherty to give him whatever documents he has in order that the Audit Committee and whomever is eventually hired by the Board to do the True Up investigation can review and consider them. Commissioner Dougherty placed some records on the Board table and withdrew them from the table at the end of the meeting.

Commissioner Wagner then proposed a Motion under which the Board would establish a citizens advisory committee made up of equal numbers of members from New Jersey and Pennsylvania to advise the Board. He also suggested that the Governors might have a citizens advisory person on the Board. Vice Chair Nash suggested that there should be at least one person on the advisory committee who represents our commuters/PATCO riders.

Chairman Estey then directed staff, at the next meeting, to propose to the Board a schedule that will include two monthly Board meetings. Vice Chair Nash reminded the Chair that he would like the DRPA to also hold an evening meeting in New Jersey.

The CEO asked COO Pulte and PATCO GM Box to explain the issues with the new Board rules requiring all contracts to come to the Board. Mr. Pulte provided some examples of safety and security situations where we need to be able to make small purchases without waiting for a Board meeting, as did Mr. Box. Mr. Pulte also noted that there are revenue opportunities that might be lost. Commissioner DiCicco pointed out another situation where time is of the essence. Commissioner Bogle supported the staff position and Vice Chair Nash agreed that he had not

meant to include small items in the Resolution, just professional services and bid contracts. Commissioner Wagner agreed and asked staff for recommendation and encouraged cost efficiency. CEO Matheussen requested that the Board temporarily approve having CEO approve expenditures and contracts up to \$10,000 with the understanding that he will report back at the next meeting to present a more thorough analysis. Commissioner Sanchez asked why \$10,000 not \$5,000 and CEO Matheussen said he was asked for a quick recommendation amount, and it was half of the \$20,000 that was discussed at the last meeting, and that he was hoping for some room. Commissioner DiCicco agreed. Upon Motion duly made and seconded, the Board agreed that the CEO has the power to approve contracts and expenditures up to \$10,000 until the next Board meeting at which time the CEO will make a presentation regarding a permanent resolution on this topic.

CEO Matheussen told Commissioner Dougherty that he has the credit card records that Commissioner Dougherty requested and they were handed to him.

There being no further business, on motion of Chairman Estey the meeting was adjourned.

Respectfully submitted,

Richard L. Brown,
Assistant Corporate Secretary