Petroleum Underground Storage Tank Release Compensation Board
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MINUTES OF THE 199th MEETING OF THE PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD
June 14, 2023 – 10:00 a.m.

BOARD MEMBERS IN ATTENDANCE

Jim Rocco
John Hull
Don Bryant
Larry Burks
Scott Fleming
Dan Ridi
Tom Stephenson

EX-OFFICIO MEMBERS IN ATTENDANCE

Scott King, representing Director Sheryl Creed Maxfield, Ohio Department of Commerce
Michael Lenzo, representing Robert Sprague, State Treasurer of Ohio

OTHERS IN ATTENDANCE

Starr Richmond	Executive Director, PUSTRCB
Madelin Esquivel	Assistant Director, PUSTRCB
Don Leasor	Chief Fiscal Officer, PUSTRCB
Hannah Brame	Claims Supervisor, PUSTRCB
Jonathan Maneval	Executive Assistant, PUSTRCB
Beth Fligner	Assistant Attorney General
Howard Silver	Hearing Officer
Rex Moskovitz	Rea & Associates, Inc.
Travis Strong	Rea & Associates, Inc.
Dan Adams	Atlas Technical Consultants
Michael Baker	BJAAM Environmental, Inc.

Minutes submitted by:

Jonathan Maneval

Jonathan Maneval
Executive Assistant

Call to Order:
Chairman Rocco convened the one hundred ninety-ninth meeting of the Petroleum Underground Storage Tank Release Compensation Board on Wednesday, June 14, 2023.

The following members were in attendance: Jim Rocco; Don Bryant; Larry Burks; Scott Fleming; John Hull; Dan Ridi; Tom Stephenson; Scott King, representing Director Sheryl Creed Maxfield, Ohio Department of Commerce; and Michael Lenzo, representing Robert Sprague, State Treasurer of Ohio.

The following members were not in attendance: Steve Bergman and Donna Waggener, representing Director Anne Vogel, Ohio Environmental Protection Agency.

Minutes:
Chairman Rocco asked if there were any comments or questions regarding the minutes from the March 15, 2023, Board meeting and there were none. Vice-Chairman Hull moved to approve the minutes and Mr. Lenzo seconded. A vote was taken, and all were in favor. The minutes were approved as presented.

BUSTR Report:
Chairman Rocco called upon Scott King, Bureau Chief, to present the Bureau of Underground Storage Tank Regulations' (BUSTR) report.

Mr. King reported that BUSTR is maintaining an active and busy spring. He said the responsible party searches for the fiscal year were completed. He said moving into the next fiscal year, there is grant money to pay for 60 to 65 responsible party searches, which will be focused on the ESG (environmental, social, and governance) guidelines requested by the U.S. Environmental Protection Agency (U.S. EPA).

Mr. King said the Department of Commerce is continuing to telework with staff working in the office two to three days a week. He said the release prevention UST (underground storage tank) grant request for the 2024 - 2025 fiscal year was submitted and approved by the U.S. EPA-OUST, and they are awaiting the funding to come in. He said there was no increase in funding, as has been the case over the last couple of cycles. He said the LUST (leaking underground storage tank) grant funding was received and $85,000 in special projects funding from the U.S. EPA was received, which will allow BUSTR to take 25 to 30 years of data from their old database and fiche files and pull it forward and clean it up. He said there are 35,000 to 40,000 files on different servers and holding spots and the funding should cover most of the costs to make the files ready to move into the new database being built.

Mr. King reported that BUSTR's staff is doing their normal training. He said 24 new inspectors graduated during the annual spring class. He mentioned that a couple of new delegated fire departments, including Toledo, are coming on and their delegation paperwork is being finalized.

Mr. King reported the new IT project to develop a new database for BUSTR is taking time and will take a lot of work. He said they had some great kickoff and development meetings and are excited for it.

Mr. King said there are currently 21,068 registered tanks and 3,374 owners of 6,976 registered facilities. He reported that 260 no further actions (NFAs) were issued in the current reporting cycle and just over [3,400] new federal inspections and follow-up inspections were completed since August 2022.

Mr. Lenzo asked what vender BUSTR is using to update its database and Mr. King said 3Di is the vendor. He noted that 3Di is the main vendor used by the Fire Marshal's Office, which allows the Bureaus' systems to be integrated. Chairman Rocco asked when the project is to be done and Mr. King said they are shooting for it to be completed in late 2024 or early 2025. He said that date may be pushed back a little because of some additional features they would like to add to it.

Chairman Rocco asked how the U.S. EPA is defining ESG sites. Mr. King said the U.S. EPA uses raw census data to look at things such as race, gender, and several other key factors and then wraps in the environmental effect to come up with an ESG rating. He said the focus is on sites with a 90% or higher ESG rating. Chairman Rocco commented that it seems to be tied to environmental justice communities and said there is a high probability the responsible party searches are for sites located within an environmental justice community because they are mostly urban or inner-city sites. Mr. King said sites in higher populated areas will have a higher risk score. He said the idea is to look at environmental factors and environmental conflict to mitigate the risk for the public. The Chairman asked if this is leading to a prioritization of activities and Mr. King said the U.S. EPA is wanting BUSTR to increase enforcement in those areas.

Mr. Ridi asked if the number of registered tanks decreased in comparison to the previous year and Mr. King said he would need to pull that data from the system. He noted that a couple of companies are having major builds and installing a lot of tanks but on the flip side, there are tanks being pulled as well. Chairman Rocco said information concerning tank numbers would be presented in the Financial Reports.

Financial Reports:

Chairman Rocco called upon Don Leasor, Chief Fiscal Officer, to present the financial reports.

February, March, and April Financials

Mr. Leasor said the February, March, and April financials were emailed to each member. He said since fiscal year 2023 annualized revenues and expenses would be discussed as part of the operating budget, he would not review the monthly financial reports. He asked if there were any questions concerning the financials and there were none.

Mr. Leasor said in fiscal year 2023 the Board contracted with Rea & Associates, Inc. to perform an information systems security risk and compliance assessment. He said the results of that assessment and the recommendations raised would be presented later in the meeting. He said the legal and professional line item includes $16,000 for Rea & Associates, Inc. to conduct Phase 2 of the risk assessment. He explained that Phase 2 of the risk assessment is to review and confirm the recommendations from Phase 1 of the assessment are implemented and operating effectively as intended. He said to address Phase 1 recommendations, a plan is to transition to Microsoft 365 at an estimated cost of $4,800 annually. In addition, a third party will be contracted to monitor the Board servers, workstations, and laptops for malicious activity; to provide alerts and monitoring notifications; and perform automated security patch updates. He said this will cost $500 per month. In addition, the Board's website will be hosted by a third party at an estimated cost of $200 per month. He said the computers used at employees' homes are being replaced with new equipment and updated software at an estimated cost of $15,000. He said some IT-related policies will be drafted and training will be provided to employees.

Capital Budget

Mr. Leasor noted that preliminary budgets were emailed to the Board members, however, some modifications were made and the final recommended budgets were included in the notebooks.

Mr. Leasor said the proposed capital budget shows the actual fiscal year 2022 expenditures, the budgeted amounts and annualized expenditures for fiscal year 2023, and the recommended budget amounts for fiscal year 2024.

Mr. Leasor said furniture and equipment was budgeted at $5,000 for fiscal year 2023 and there were no expenditures for this budget line item. He said the recommended furniture and equipment budget for fiscal year 2024 is $5,000. He said this funding is for any furniture purchases that may be needed.

Mr. Leasor reported that data processing and electronics were budgeted at $40,000 for fiscal year 2023, and the actual expenditures for this line item were $26,749. He said these expenditures included the purchase of a data backup appliance, a conference call station, the installation of the firewall, and the continuing document management project. He said $95,000 is recommended for data processing and electronics for fiscal year 2024. He said the recommended budget includes $50,000 to develop and design a new website to align the look and feel of it with other state websites and to meet Americans with Disability Act requirements for websites. He said the complete scope of the project is not known but believed the costs will not exceed $50,000. He said the proposed budget includes $15,000 for the development of an Automated Clearing House module to the Board's STARRS (Statistical Tank and Reimbursement Records System) database, which will allow the Fund to pay vendors directly using ACH transfers. He said $5,000 is included for updating the document management software to interface with the STARRS database. He said the budget includes $15,000 to replace workstations currently using the Windows 7 operating system which is no longer supported. He said $10,000 is included for miscellaneous IT equipment and software costing more than $500.

Mr. Leasor said the total capital budget for fiscal year 2023 was $45,000 and the actual expenses totaled $26,749. He said the recommended capital budget for fiscal year 2024 is $100,000. Mr. Burks commented that he was excited to see ACH transfers being implemented and said it will be a lot quicker and more secure. Chairman Rocco asked if the Board is currently working with the Windows 11 operating system and Mr. Leasor said Windows 10 is currently being used. The Chairman commented that Windows 11 has specific chip requirements and some equipment may not be able to be upgraded to it. He said something to keep in mind is that Microsoft will stop supporting Windows 10 in the next few years.

Mr. Ridi asked why investment income was $69,000 in the month of April but was $234,000 in the month of March. Mr. Leasor said there was $185,000 of unrealized gain in the month of March. He explained that the value of the investments is recorded at their reported market value. He noted that the unearned gains and losses on the investments is all on paper and explained that the Board's policy is to hold its investments to maturity so that there is no realized loss on the investments.

Approval of the Capital Budget

Chairman Rocco asked if there were any other questions concerning the financials or the proposed capital budget and there were none. He then requested a motion to approve the capital budget as proposed. Mr. Burks so moved, and Mr. Bryant seconded. A vote was taken, and all were in favor. The motion passed.

Operating Budget

Mr. Leasor said the proposed operating budget presents the approved budget and actual annualized expenditures for fiscal year 2023, and the recommended budget for fiscal year 2024.

Mr. Leasor reported that tank revenue for fiscal year 2023 was budgeted at $8.4 million for 20,180 USTs, and actual projected revenues net of refunds should be at $8.4 million. He recommended tank revenue for fiscal year 2024 be budgeted at $8.35 million. He said the per-tank fees are $350 and $550 for the $55,000 and $11,000 deductibles, respectively. He explained that the tank budget revenue estimate was built on the assumption that fees will be received for 20,260 tanks, and 26.5% of these USTs will be assured at the reduced deductible. He noted that fees were billed for 20,721 USTs for the annual mailing in April, and stated this was 62 more tanks than were billed in the previous annual mailing. He pointed out that this is the second year the number of USTs billed has increased. He said tank fee revenue includes property transfer fees, which are projected to be $100,000 for fiscal year 2024. He said a portion of the transfer fees were assessed during the current fiscal year but are anticipated to be collected in fiscal year 2024. He stated that collection of prior years' fees, less anticipated fee refunds, are projected to be $80,000 in fiscal year 2024.

Mr. Leasor stated that interest income was $266,000 above the budgeted amount for fiscal year 2023. He said this is due to an increase in interest rates in STAR Ohio (State Treasury Asset Reserve of Ohio) and the reinvestments in U.S. treasuries and U.S. agency callable bonds at higher rates. He said through May 31, 2023, there was an unrealized loss totaling $45,350 on the U.S. treasuries and U.S. agency callable bonds. He explained that the decrease in market value is driven by an increase in interest rates which has an inverse effect on the market price of the bonds. He stated that although decreases in the market value of the U.S. treasuries and U.S. agency callable bonds continues to be seen, the Board's policy is to hold these investments to maturity; and therefore, the full principle is received upon maturity and there is no realized loss on the investments. He said the projected interest income for fiscal year 2024 is $675,000. He said this anticipated interest income is based on an estimated interest rate of 450 basis points for STAR Ohio and the earnings from investments in the U.S. treasuries and U.S. agency callable bonds.

Mr. Leasor reported that miscellaneous income totaled $280. He explained that this income was from payments for printing and copying of materials for public record requests, and cash rebates on purchases. He recommended that miscellaneous income be budgeted at $1,000 for fiscal year 2024.

Mr. Leasor stated the actual total income was [$267,000] above the $8.6 million budgeted for fiscal year 2023.

Mr. Leasor said the claims expense is anticipated to be $7.03 million for fiscal year 2023. He said this includes the final payment to BP of $500,000 under a settlement agreement. He stated that the proposed budget for the fiscal year 2024 claims expense is $8 million.

Mr. Leasor said the salary line-item expense was $151,000 below the amount budgeted for fiscal year 2023. He said this was due to one position being vacant the entire year along with three short-term vacancies. He recommended the fiscal year 2024 budget for employee salaries be set at $1.62 million. He said this amount reflects a 3% cost-of-living adjustment to maintain parity with increases provided for in the union contract and a full staff of 16 employees.

Mr. Leasor reported that temporary services expenses were $14,000 below the budgeted amount. He said a temporary employee was used to fill one vacancy during the fiscal year and that individual is now a full-time employee. He recommended the 2024 budget for temporary services be $30,000 in the event money is needed for temporary personnel.

Mr. Leasor said the actual rent expense for fiscal year 2023 was $154,000. He stated that the lease for the Board's office spaces expires October 31, 2023. A proposed lease renewal was received, which would be further discussed following the operating budget presentation, and based on the proposed lease, the recommended rent expense for the fiscal year 2024 is $159,000.

Mr. Leasor reported the actual office supplies expenses were about $2,300 above the budgeted amount. He said this included the first year's Microsoft 365 subscription. He said the amount requested for fiscal year 2024 is $25,000. He explained that this amount includes the Microsoft 365 subscription, funding for standard office supplies, offsite storage, and information technology (IT) hardware and software with a cost of under $500.

Mr. Leasor stated that actual printing and copying expenses for fiscal year 2023 were $6,700 below the budgeted amount. He noted that printing costs for the new copiers are lower than under the previous contract and said the amount for printing and copying expenses for fiscal year 2024 is being reduced to $10,000.

Mr. Leasor said legal and professional actual expenses were $4,700 below the budgeted amount. He said the amount requested for legal and professional expenses for fiscal year 2024 is $290,000. He explained that these expenses include the costs for the services of the Assistant Attorney General; a hearing officer; the annual audit; attorney general and special counsel fees related to the collection of delinquent accounts; database maintenance services; a service contract for the scanners; the Information Security Risk Assessment Phase 2; a contract to provide IT monitoring services; an actuarial services contract for the claims study; and other miscellaneous professional services.

Mr. Leasor reported that travel expenses were $3,400 below the budgeted amount. He recommended the budget for travel expenses for fiscal year 2024 be $5,000, which includes Board member travel expenses.

Mr. Leasor stated that employee expenses were $228 below the budgeted amount. He said the recommended budget for employee expenses for fiscal year 2024 is $1,000.

Mr. Leasor said telephone expenses were $900 above the budgeted amount. He said this was due to a cost increase for messaging software. He mentioned that once the transition to Microsoft 365 is completed, the messaging software will no longer be needed. He said the anticipated telephone expenses for fiscal year 2024 are $17,000. He noted that these expenses include web access, spam and virus filtering, phone service, remote access software, and third-party hosting of the website.

Mr. Leasor reported that postage expenses were $5,600 below the budgeted amount. He said the recommended budget for postage for fiscal year 2024 is $35,000.

Mr. Leasor said the depreciation expense was $4,600 below the budgeted amount. He said the anticipated depreciation expense for fiscal year 2024 is $25,800.

Mr. Leasor pointed out that overall operating expenses were about $186,600 or 8.8% below the amount budgeted for fiscal year 2023. He stated that the recommended fiscal year 2024 operating budget totals $2,214,800, which is a $98,900 increase from the 2023 budget. He noted that the increase is primarily due to increases in salaries, and legal and professional, rent, office supplies, and telephone expenses.

Chairman Rocco asked if there were any questions concerning the proposed operating budget and there were none.

Obligate Money for the Payment of Claims
Chairman Rocco said the Board needed to obligate money for the payment of claims and requested a motion to obligate $8 million for the payment of claims during fiscal year 2024. Vice-Chairman Hull so moved, and Mr. Bergman seconded. A vote was taken, and all were in favor. The motion passed.

Actuary Contract
Chairman Rocco called on Mr. Leasor to discuss the actuary contract. Mr. Leasor said the staff is proposing to use Milliman Inc. to prepare the estimated unpaid claims liability for fiscal year 2023. He explained that, starting with the fiscal year 2018 audit, Milliman has been used to evaluate the claims that were on hold due to litigation and develop an estimate of the unpaid claims liability for that group, while he developed the estimate for all other claims. He said the combined totals provided the total estimated unpaid claims liability. He said, as part of the 2023 budget, Milliman was contracted to perform the entire actuarial evaluation and prepare the fiscal year 2022 report for the Board, which resulted in significant time savings for the staff. He said under the proposed contract, Milliman will develop the entire estimated claim liability as of June 30, 2023. He said the fees for the contract are $30,000 plus travel and related expenses. He noted that Milliman billed $41,000 for their services in the previous year but pointed out that this included a one-time cost to build the model used to evaluate all claims submitted to the Fund.

Mr. Burks asked where they were traveling from, and Mr. Leasor said they are located in the Minneapolis area but noted that no travel expenses have been incurred because all meetings have been done by phone and files have been transferred electronically. Vice-Chairman Hull asked if Milliman is using the same software the Board has historically used and Mr. Leasor said Milliman is using their own proprietary software, but they use the same actuarial methodologies. Mr. Leasor said Milliman can do their evaluation much quicker, and it saves about 160 hours of staff work time. The Chairman asked if there were any other questions concerning the proposed contract and there were none. He then requested a motion to authorize the Chairman to enter into an agreement with Milliman, Inc. to assist the Fund in developing the potential claim liability as of June 30, 2023, in an amount not to exceed $30,000 plus travel and related fees. Vice-Chairman Hull so moved, and Mr. Stephenson seconded. A vote was taken, and all were in favor. The motion passed.

Hearing Officer's Contract Renewal

Chairman Rocco said Mr. Silver has agreed to continue as the Board's hearing officer for the next fiscal year and requested a motion to authorize the Chairman to enter into an agreement with Howard Silver for continued hearing officer services for the period of July 1, 2023 through June 30, 2024. Vice-Chairman Hull so moved and Mr. Stephenson seconded. The Chairman commented that Mr. Silver has done a great job for the Board, and he could not think of anybody better to do it. He asked if there was any discussion. Hearing none, a vote was taken, and all were in favor. The motion passed.

Assistant Attorney General Memorandum of Understanding

Mr. Leasor stated that the fiscal year 2024 Memorandum of Understanding (MOU) for the legal services to be provided by the Attorney General's Office is at a not-to-exceed amount of $98,616. He explained that this includes salary and fringe benefit costs associated with 35% of the Assistant Attorney General's time, which is a decrease from 45% in previous fiscal years. It also includes 35% of a paralegal's salary and fringe benefits; and 17.2% for indirect costs related to support services, such as telephone, supplies, and office space. He noted that the agreement includes a clause that if the Attorney General's actual direct and indirect costs exceed the stated not-to-exceed amount, the parties will further negotiate, and any adjustments will be incorporated into a written amendment to the Memorandum of Understanding.

Mr. Leasor said the fiscal year 2024 MOU not-to-exceed amount is a slight increase from the fiscal year 2023 MOU and pointed out there is a 10% reduction in the Assistant Attorney General's time allocated to the Board. He said it is his understanding, that to remain competitive in the current employment market, there were promotions and salary increases within the Attorney General's Office resulting in a 21.8% increase in the total salary and benefit costs for the Assistant Attorney General and a 23.6% increase in the total salary and benefit costs for the paralegal. The Chairman then requested a motion to authorize the Chairman to enter into an agreement with the Attorney General's Office for the continuation of legal services in an amount not to exceed $98,616 for fiscal year 2024. Vice-Chairman Hull so moved, and Mr. Fleming seconded. A vote was taken, and all were in favor. The motion passed.

Database Consultant Contract

Mr. Leasor said the Board's database is used for managing tank owners' accounts, tracking and processing claims, writing warrants, and preparing the monthly financial statements. He explained that the Board has historically executed an annual maintenance contract with a monthly retainer so that any glitches, defects, and expansion of the database can be addressed without delay. He said, since at least 2010, the retainer has been $1,250 a month or $15,000 annually and added work was performed at $85 an hour. He said the work covered by the retainer includes assistance with the annual fee statement and claim liability processes; alteration of existing reports and creation of new reports, as needed; specialized SQL queries to retrieve data; updates required due to changes in procedures or rules; and installation and troubleshooting of the database on client workstations. He explained that added work is work related to the creation and development of the database and internet-related software that is requested by the director as a result of the change in the Board procedures, policies, or rules that will exceed 20 hours to complete; and a change order is required. He said the contract for the upcoming fiscal year proposes an increased retainer fee from $1,250 to $1,500 per month and an increase in the added work rate from $85 to $110 per hour. In addition, the term of the contract is being extended from one year to two years. Vice-Chairman Hull asked if the rates are fixed for the two-year period or if there is any annual adjustment and Chairman Rocco said the rates are fixed for two years. The Chairman said the maintenance contract has typically been an annual contract, but because it is for the maintenance of the Board's systems, it made sense to extend it to a two-year period, and to lock in the rates. He then requested a motion authorizing the Chairman to enter into an agreement with Software Engineering LLC for consulting and maintenance services of the existing STARRS (Statistical Tank and Reimbursement Record System) database in an amount not to exceed $36,000 with an added work rate of $110 per hour for the period of July 1, 2023 through June 30, 2025. Vice-Chairman Hull so moved, and Mr. Burks seconded. Mr. Burks asked if there was a difference in services between the $85 rate and the $110 rate. Mr. Leasor said that $85 is the current rate and its being moved up to $110 and Chairman Rocco pointed out that the $110 rate is strictly for authorized activities that are above and beyond what is outlined in the agreement covered by the $1,500 monthly retainer. The Chairman asked if there was any other discussion and hearing none, a vote was taken, and all were in favor. The motion passed.

Information Security Risk Assessment Contract

Mr. Leasor said, as was previously discussed, he is seeking the Board's approval to engage with Rea and Associates, Inc. for an Information Systems Security Risk and Compliance Assessment - Phase 2. He said the purpose of Phase 2 is to review and confirm that the recommendations from Phase 1 of the assessment have been implemented and that they are operating effectively and as intended, to scan for open ports in the IT system, and to evaluate if there are any unanticipated exposures resulting from the conversion to Microsoft 365. Vice-Chairman Hull asked if any testing will be done as part of Phase 2. Mr. Leasor said some penetration testing will be done and they will scan the system to find all the open ports, and if vulnerabilities are found, they will close the port. Chairman Rocco requested a motion to authorize the Chairman to enter into an agreement with Rea & Associates for Phase 2 of the Information Security Risk Assessment in an amount not exceed $16,000 for fiscal year 2024. Vice-Chairman Hull so moved, and Mr. Burks seconded. A vote was taken, and all were in favor. The motion passed.

Office Building Lease

Mr. Leasor said the lease for the Board's current office space terminates on October 31, 2023. He said an amendment to the lease was negotiated for a term of November 1, 2023 to October 31, 2029. He said under the existing lease, the cost is $10.15 per square foot plus a pro-rata share of operating expenses of 6.79%, or $8.85 per square foot. He said under the amendment, the per-square-foot rate increases to $10.50 for the period of October 1, 2023 to October 31, 2025, increases to $10.75 for the period of November 1, 2025 to October 31, 2027, and increases to $11.00 for the period of November

1, 2027 to October 31, 2029. He said 8,138 square feet is leased, and a $0.25 increase is a little more than $2,000 per year. He said the amendment estimates the pro-rata share of operating expenses will continue to be $8.85 per square foot for the remainder of calendar year 2023. He said the per-square-foot rate for operating expenses can increase in 2024 and each year thereafter, however, it is capped at 4% per year. He noted that operating expenses have increased only 2% under the existing six-year lease.

Mr. Burks asked if the agreement has a clause to renegotiate the rates considering the uncertainty in the market for office space. Chairman Rocco said the agreement is a fixed six-year agreement with no specific option to renegotiate the rates. He said the Board can terminate the lease and if it did threaten to terminate, there might be an option to renegotiate. Mr. Burks said his observation is there is more and more office space on the market and the rates are going down instead of going up. Chairman Rocco said that was a good point given the market for office space right now. He commented that he felt the [$0.85] increase over six years is reasonable and somewhat reflects a flat market. Mr. Burks asked if the staff is satisfied with the space and facility maintenance. The Chairman said there has been no major operational maintenance issues and it has worked out well for the staff. The Chairman then requested a motion to authorize the Chairman to execute the First Amendment to Lease agreement, to extend the term of the Office Building Lease for 72 months, commencing on November 1, 2023, and expiring on October 31, 2029, for the Board's office space at 4151 Executive Parkway, Suite 350, in Westerville, Ohio. Mr. Burks so moved and Vice-Chairman Hull seconded. A vote was taken, and all were in favor. The motion passed.

Approval of the Operating Budget

Chairman Rocco requested a motion to approve the fiscal year 2024 operating budget as proposed. Vice-Chairman Hull so moved, and Mr. Fleming seconded. The Chairman asked if there were any questions concerning the proposed operating budget and there were none. A vote was taken, and all were in favor. The motion passed.

Fee Statement Statistics

Mr. Leasor stated that the program year 2023 fee statements were issued on April 28, 2023, and $8.3 million was invoiced to 3,122 owners of 20,721 USTs. He said as of May 31, 2023, the per-tank fees collected were approximately $3.22 million, which represents 39% of the amount billed. He pointed out that collections for the same period in the previous year were $2.87 million. He noted that the program year 2023 fees collected to date are approximately $350,000 above the payments received during the same period in the prior year.

Mr. Leasor said between the fee statement mailing in April 2022 and May 31, 2023, about $8.29 million was collected for program year 2022 fees, and $53,000 was collected for prior years' fees net of refunds paid of about $273,000.

Mr. Leasor reported for program year 2023, a total of 15,526 tanks were billed at the standard deductible ($55,000) per-tank fee and 5,195 tanks were billed at the reduced deductible ($11,000) per-tank fee. He said as of May 31, 2023, fees had been paid at the standard deductible rate for 5,341 tanks and at the reduced deductible amount for 2,505 tanks. He said, in total, fees had been paid for 7,846 tanks by 1,333 owners. He said this compares to fees being paid for 6,902 tanks by 1,262 owners for the same period of time in the prior year. He noted that in comparison to the previous year, the number of tanks paid increased by 13.7% and the number of owners that have paid increased by 5.6%.

Mr. Leasor reported, as of May 31, 2023, the program year 2022 fees were paid for a total of 20,291 tanks by 2,995 owners.

Mr. Leasor said the $3.22 million collected to date is [38.6%] of the $8.35 million budgeted for program year 2023. He said the 7,846 tanks with fees paid for program year 2023, reflects 38.7% of the 20,260 tanks budgeted to apply for certificates this year.

Compliance and Fee Assessment Report:

Chairman Rocco called on Madelin Esquivel, Assistant Director, to present the compliance and fee assessment report.

Ms. Esquivel reported that refunds totaling $273,185 had been paid to 186 owners since July 1, 2022. She said the amount of pending refunds currently totals $1,334,255. She said $55,975 of pending refunds had been used to offset outstanding fees this program year. She said since July 1, 2022, the fees collected by the Attorney General's Office and Special Counsel less collection costs totaled $119,771. She reported that no accounts had been sent to the Attorney General's Office for collection as of May 31, 2023. However, since then, outstanding fees for 128 accounts totaling $584,490 had been certified for collection. She commented that this amount includes the unpaid program year 2022 fees plus some miscellaneous other program year fees that were identified during the review.

Ms. Esquivel said four Orders Pursuant to Law are currently under appeal and information to support those appeals is expected. She said three Determinations to Deny a Certificate of Coverage were under appeal. She said information to support two appeals is expected and additional information provided is under review for one appeal.

Ms. Esquivel stated that one Ability to Pay Application is pending review. The Ability to Pay program allows former UST owners experiencing financial difficulty to apply for and receive a determination of their ability to pay delinquent fees.

Ms. Esquivel reported that, as of June 5, 2023, Certificates of Coverage had been issued to 2,903 owners for program year 2022. She said there are 30 Applications for Certificates of Coverage currently being processed. She said for program year 2022, there are 11 owners with unresolved Pending Denials and 98 owners with unresolved Determinations to Deny a Certificate of Coverage.

Ms. Esquivel stated that there are 51 uncashed refund checks totaling $58,923. She said there are 17 owners with pending refunds totaling $87,950 to whom more information request letters had been sent notifying them that additional information is needed before the refund may be issued. She said there are 40 owners with pending refunds totaling $69,415 for which information had been requested, but no responses have been received.

Ms. Esquivel pointed out for program year 2022 the amount of refunds paid plus the amount of refunds used to offset outstanding fees totaled $329,160.

Vice-Chairman Hull asked how the $500,000 certified for collection this year reflects to the $1,091,000 certified in the previous year. Ms. Esquivel said there are typically two certifications a year, with the primary certification of the unpaid current program year fees being sent in February. She said since this year's certification was sent later, a lot of owners sent payments using invoices that were included with the 2023 Applications that were mailed out in April. She commented that members will see a high number of Certificates of Coverage on the 2022 certificates issued list because of the late payments.

Claims Reports:

Chairman Rocco called on Hannah Brame, Claims Supervisor, to present the claims reports.

Ms. Brame reported, as of June 1, 2023, the total maximum liability of in-house open claims is approximately $10.77 million. She said using the claim payout ratio of 79%, which is the average ratio over the past five years, the anticipated payout of unpaid in-house claims is about $8.5 million.

Ms. Brame reported, as of June 1, 2023, a total of 569 claims with face values above the deductible amount were pending review and noted that review of six of the claims is pending receipt of requested information. She reported that the claims staff are currently reviewing claims received prior to December 2022. She stated that, as of June 1, 2023, a total of 21 claim determinations were under appeal. She explained that these appeals pertain to only five release sites, as there are multiple appeals for two of those sites. She noted that the staff is waiting on supporting information for one appeal, additional information provided is under review for two appeals, a hearing was held for one appeal, and a hearing is scheduled for one appeal.

Ms. Brame stated that, as of June 1, 2023, a total of 439 claim packages were received and a total of 477 claim determinations were issued this program year. She noted that no payment could be issued for 47 of these claims as the total face values were below the deductible amounts and the releases had received NFA status. She said the average payout per claim application this program year is $12,308 and the average claim payout is 73% of the net claim value (face value – deductible). She noted that on average 22.2% of the claim face value is disallowed as non-reimbursable. She commented that the averages this program year are impacted by a December 2022 Settlement Agreement and Release with Sunoco in which 10 claim packages totaling $318,000 were closed without review and no payment was issued.

Mr. Ridi said in speaking with environmental consultants that do business in Ohio and other states, he was told the reimbursement rate in the State of Ohio is 80% versus the State of Pennsylvania, which has a rate of 98%. He asked if there is an explanation why Ohio's reimbursement rate is 80% when neighboring states are at 98%. Chairman Rocco said that is a tough question to answer because there are substantial differences in how the state programs operate and what is and what is not reimbursed. He said Ohio's 80% reimbursement number has been pretty consistent throughout the years and there would almost need to be a claim-by-claim comparison to figure out whether there really is a difference or not. He commented that consultants will often submit all costs in the claim and then let the Board figure out whether it is covered under the Fund or not. He noted that the Fund does not pay for things like concrete replacement and paving a lot, and there may be things that other state funds pay for, but the Ohio Fund does not. Mr. Ridi asked if Pennsylvania charges more for fees so they can afford to pay a higher percentage. Chairman Rocco said Ohio is one of the few states that operates solely on a per-tank fee basis and most other state funds are funded through either a gasoline tax or another direct tax collection mechanism. He said the Board admittedly is a lot more studious about reviewing claims to ensure tank owners are getting value for the buck they are putting in. He said something to keep in mind is the statute says only costs necessary to conduct corrective action can be paid from the Fund, and that phrase drives the review of claims.

Mr. Ridi said the turnaround for an eligibility application in the State of Pennsylvania is less than 30 days, but it takes 18 months in Ohio. Chairman Rocco said that may have been true at one time but thought that was down substantially. Executive Director Starr Richmond said she did not know where the 18 months comes from but there may have been a specific case the consultant was looking at that took 18 months. Mr. Ridi said in reviewing his notes, payment for claims is less than 100 days in the State of Pennsylvania versus eight months for Ohio, and processing an eligibility application in Ohio is 18 months. Chairman Rocco said when an eligibility application is submitted and it is incomplete or there is information to question whether it is eligible, there is a process for sending notices and it may take eight to nine months for the determination to be issued. He said if a site has been out of service for a number of years or is not in compliance with BUSTR requirements, it will hold up the application because those questions have to be resolved before a denial or approval of eligibility can be issued. Mr. Ridi asked how long, on average, it takes for an eligibility determination to be issued, assuming the site is in compliance, the application is complete, and everything is submitted. Director Richmond said it is not something that is tracked, and she did not know. The Chairman said the staff will look at it and get back to him.

Ms. Brame reported, so far for program year 2022, a total of 65 eligibility applications were received and 75 eligibility determinations were issued. She said of these eligibility determinations, 59 were approved and 16 were denied. She said the reasons for denial included two for no release demonstrated, three for late filing of the eligibility application, two for lack of a valid Certificate of Coverage, three for out-of-compliance tanks, and six for no corrective action required by BUSTR. She said as of June 1, 2023, a total of 92 eligibility applications were open. She noted that seven of these applications were unreviewable until the necessary reports are received, and more information has been requested for four of these applications. She also noted that, as of June 1, 2023, nine eligibility determinations were under appeal. She said additional information is expected for two appeals, information for five appeals has been received and is under review, a hearing was held for one appeal, and a hearing is scheduled for one appeal.

Ms. Brame reported, as of June 1, 2023, a total of 97 cost pre-approval requests were received. She said the cost pre-approval requests include 14 requests for new remedial action plans; 41 requests for annual costs for remedial action plans or free product recovery; three requests for an interim response action requiring BUSTR approval; 17 requests for either Tier 3 or monitoring/calibration plans; eight cost exceedance notifications; and 14 voluntary requests for cost pre-approval. She said as of June 1, 2023, a total of 96 cost pre-approval notifications had been issued and 47 cost pre-approval requests were pending review.

Unfinished Business:

Information Security Risk Assessment

Chairman Rocco called on Rex Moskowitz with Rea & Associates, Inc. to discuss the summary of findings of the 2023 Information Security Risk Assessment (ISRA).

Mr. Moskowitz stated that Rea & Associates was engaged to conduct the ISRA on February 28, 2023; evidence gathering was done from March 1 through April 7, 2023; and the report was delivered April 12, 2023. He said it was a very efficient timeline and thanked Director Richmond, Mr. Leasor, and the staff for their work. He commented that the Board is one of the few clients who provided information in the timeframe it was needed.

Mr. Moskowitz said the assessment began by looking at what they call the defense-in-depth strategy. He said this approach allows them to identify risks, review the risks, and categorize them appropriately as low, medium, or high. He said they check for management's awareness of risk; whether risks are communicated appropriately; and if training is provided to staff and others directly or indirectly affiliated with the Board's systems, network, and technology architecture. He said they verified whether policies and procedures are in place and if there is a remediation plan in place should a risk become a threat and there is a breach event. He said they reviewed asset management, network access, and network security. In addition, they looked at the organization structure, classification of data, and access privileges for employees and third-party vendors. He said they checked for threat detection and monitoring, whether internal controls are in place, and whether the controls are designed and operating effectively. They checked to see if there is data loss prevention, and in the event of a breach, if management would know that a breach occurred, when it occurred, what happened, and if a remediation plan was identified, implemented, and executed in a timely manner. He said they looked at data backups, if the backups are monitored, and where the backups are kept. They reviewed the upward and downward communication flow should somebody find that something happened. Mr. Moskowitz asked if there were any questions concerning the defense-in-depth strategy approach and methodology. Mr. Burks asked if the approach took into consideration that much of the information kept by the Board is a matter of public record and Mr. Moskowitz confirmed that it did. He noted that an external penetration test of the public network was conducted to see if there were any open ports, which could provide access to the Board's internal network and operations. He said they did not find any type of breach or open port that would be a security vulnerability or threat.

Mr. Moskowitz said their risk assessment approach and methodology includes a core framework from the National Institute of Standards and Technology (NIST) that they test against. He said the NIST protocols are the global standard for IT system security, cyber security, and risk management. He noted that additional frameworks were used that were applicable to their work. He said using the NIST approach and methodology, they assess risk maturity, which consists of four tiers – partial, risk informed, repeatable, and adaptive. He mentioned that most clients fall within Tier 2 – risk informed. He said they take the results of the testing and go through it to assess the organization's maturity, which drives the profile of the organization.

Mr. Moskowitz said based upon the evidence provided and the threat assessment conducted, they had some findings and recommendations. He said the four areas they felt were most significant from a management perspective were information security architecture, evolved solutions for information systems and operating environments between management and third-party vendor involvement in those systems; rapid implementations of confirmed security solutions; and continuous monitoring strategies and programs. He said, based on the threat assessment and classification of the risk in this year's work, the Board is rated in Tier 2 - risk informed, which, he said, is not a bad thing. He said prior to beginning their work, they were informed that the Board was in the process of upgrading to Microsoft 365, and within the scope of the work were asked to assess if implementing a Tier 3 license was appropriate for the organization. He said they concur with management's strategy and said implementing the Tier 3 license will provide three layers of security and provide the necessary configured security within the architecture to remediate many of the recommendations they have. He said to fill in some gaps in policies and procedures, they prepared a series of policies and procedures for the Board to use, which are tailored to the organization. He said to address cybersecurity risks they recommend annual external and internal penetration tests be conducted. He said they found no incident response plan was in place and a template was provided to build the incident response plan. He said protections against data leaks are not implemented and devices and other assets are not authenticated through multi-factor authentication. He said when the organization moves to Microsoft 365 multi-factor authentication will be enforced. Mr. Burks asked for clarification of multi-factor authentication, and Mr. Moskowitz explained that when logging into a computer, the device needs to be authenticated by a separate device, such as on a phone through email or text message.

Mr. Moskowitz said the Microsoft 365 Tier 3 license includes security configurations to block certain websites and provides email threat protection to block against social media, phishing, and smishing attacks. He said the upgrade will provide encryption of data at rest and provide a data audit log, which he recommended be configured to be saved for 45 days. Mr. Burks asked if the data is subject to records retention requirements and Mr. Moskowitz said no because it is too much data. Mr. Burks said from his experience his understanding is that information like browser history logs are public records. Mr. Burks asked that Rea & Associates look at the types of data being stored, the time period the data is stored, and how it relates to public records retention as part of their Phase 2 assessment. Chairman Rocco said records retention is more of a legal question. Mr. Lenzo said there are records retention schedules to address different records series and records cannot be destroyed in a lesser time period unless it has gone through the approval process with the Department of Administrative Services (DAS), the Auditor of State, and the state archivist. He said if the electronic system is automatically deleting data, it should match up with the records retention schedule. Vice-Chairman Hull asked if Rea & Associates can provide training on notifications of breaches and provide assistance with notification to parties. Mr. Moskowitz said there is training that could be provided. Mr. Lenzo asked if the Board is covered by the DAS cybersecurity insurance policy and Mr. Moskowitz said they looked into it and confirmed that the Board is covered.

New Business:

Administrative Appeal

Chairman Rocco called upon Howard Silver, the Board's hearing officer, to present the Report and Recommendation regarding the appeal of the determination of eligibility issued to Kuldip Singh.

Owner Number: 21024 Eligibility ID: 0001, Operator - Kuldip Singh
Fast Fuel, 1514 Parkman Road, Warren, OH 44485

Mr. Silver said the case being presented to the Board concerned an issue of a filing deadline, which was not met. He explained that a release was suspected at a site in Warren, Ohio when the monitoring equipment used to test the tanks for leaks showed 10 separate failed test results and a sheen and petroleum substance were observed on the ground. He said the operator at the property, Fast Fuel, observed this and reported a suspected release to BUSTR on February 6, 2019. He said BUSTR sent an investigator to the site the next day, February 7, 2019, who wrote a report, and the report mentioned the failed leak test results and the obvious indications of a release.

Mr. Silver said the Board is empowered by statute to adopt rules to accomplish the aims and goals of the agency, and one rule adopted by the Board in the early 1990's is Ohio Administrative Code section 3737-1-07(A)(1). He said this rule states that to be eligible for reimbursement of corrective action costs from the Fund, an eligibility application must be filed within one year of the date upon which the release was required to be reported to the fire marshal. He stated that the accidental release was first noticed on February 6, 2019, and it was required to be reported within 24 hours or by February 7, 2019, which, he noted, it was. He stated that the eligibility application was filed on November 20, 2020, about nine months after the deadline to file.

Mr. Silver said a hearing was held and Mr. Maneval testified as a witness on behalf of the Board. He said the facts are not in dispute but mentioned the lawyer representing the owner implied that the record did not contain enough evidence to show there was a suspected release on February 6, 2019. Mr. Silver said he did not agree and thought there was plenty of evidence to show a suspected release was observed on February 6, 2019, and he pointed out that a suspected release was in fact reported on February 7, 2019. He said the Application for Financial Assurance Fund Eligibility that needed to be submitted by February 7, 2020, did not occur until November of 2020, well after the deadline set by rule. He said because of that, the Director of the Financial Assurance Fund, Ms. Richmond, sent a letter saying eligibility to claim against the Fund is denied because the application was not filed in time. Mr. Silver said based on a preponderance of evidence in the hearing he agreed that the denial of eligibility by Director Richmond on behalf of the PUST Financial Assurance Fund was valid and lawful and his recommendation to the Board is the denial be upheld.

Mr. Burks said reading through the report he noted they tried to make an excuse that COVID impacted their ability to timely file, but the Governor's declaration of an emergency was a full month after the deadline passed, so they were grasping at straws. Mr. Silver said that was exactly right and noted a twist in the case was the application was filed by Kuldip Singh who did not own the site until June 2019. Mr. Burks pointed out that Mr. Singh was the operator and was probably the one who saw the leak. Mr. Silver confirmed that Mr. Singh was the operator at the time of the release and then became the owner through the execution of a quit claim deed. Chairman Rocco said both the owner and operator are jointly responsible for conducting corrective actions and either party can apply for reimbursement. The Chairman asked if there was any other discussion or questions. Hearing none, he requested a motion to adopt the findings of facts, conclusions of law, and the recommendation of the hearing officer that the July 9, 2021, determination of eligibility issued by the Director of the Financial Assurance Fund to Kuldip Singh comprises valid state action as a matter of fact and law and that it be upheld. Mr. Burks so moved and Vice-Chairman Hull seconded. The Chairman called for a roll call. The following members voted in the affirmative: Messrs. Bryant, Burks, Fleming, Hull, Ridi, Stephenson, King, Lenzo, and Rocco. There were no nays. The motion passed.

Personnel Compensation

Chairman Rocco said, as was mentioned during the presentation of the financial reports, state employees are being given a 3% salary increase in the next fiscal year. He explained that a salary increase for the Board's Executive Director, Starr Richmond, needed Board approval. He then requested a motion to approve a 3% salary increase for Starr Richmond, with an effective date of June 18, 2023. Vice-Chairman Hull so moved and Mr. Stephenson seconded. A vote was taken, and all members were in favor. The motion passed.

Hardship Application

Chairman Rocco called upon Don Leasor, Chief Fiscal Officer, to present the hardship application.

Mr. Leasor stated that the Board's rule 3737-1-08 provides for an owner experiencing financial hardship to apply for hardship status with the Fund. He said granting hardship status allows for the acceleration of the review of the claims submitted by the owner. He noted that granting hardship status does not increase the amount of reimbursement to the tank owner. He stated that accelerating the review of the claim reduces the financial burden the owner would experience if the claims were reviewed and settled in the normal course of business. He said, once granted, the hardship status remains in effect for a two-year period and, at that time, the owner may reapply for hardship status.

Mr. Leasor stated that, in determining hardship status, the application and a minimum of two years of income tax records are reviewed. He said, in addition, a U.S. EPA financial capacity test is used to evaluate the owner's cash flow and determine whether the owner is able to carry debt, in which case, the owner could finance the costs of corrective actions over time.

Claim #11387-0001/05/16/91, Owner – Washington & Lee Service Inc.

Mr. Leasor said Washington & Lee Service Inc. is the responsible party for a 1991 release discovered at 2080 Lee Road in Cleveland Heights, Ohio. He noted that Washington & Lee Service Inc. was dissolved in 2007, but as owner of the release site, David Saginor is a responsible person and is completing corrective actions at the site. He said Mr. Saginor is requesting the Board grant hardship status to him.

Mr. Leasor said this is Mr. Saginor's eighth request for hardship status, and to date, the Fund has reimbursed $938,193. He noted there are currently no unsettled claims in house and the cost of corrective actions for the next two years is estimated to be $55,000. He noted the maximum amount the Fund can reimburse is $1 million less the deductible, and consequently, the maximum amount that can be reimbursed in the future for this release is $51,800.

Mr. Leasor said all underground storage tanks were removed in June 1991 and the property was sold in October 2006. He said Mr. Saginor provided the financing for the new owner and the final payment was received in August 2021. He noted that Mr. Saginor is to continue corrective actions until an NFA is obtained.

Mr. Leasor said the Saginors' reported income from social security, pension, and part time employment totals $71,200 annually and their reported annual living expenses are $56,500. He restated that the maximum amount the Fund can pay for this release is $51,800, which is $3,200 less than the $55,000 in estimated corrective action costs over the next two years. He said the $3,200 plus any future costs exceeding that amount must be paid out of pocket. He said based on the Saginors' cash flow and debt capacity the U.S. EPA model estimates the Saginors can afford $32,200 over a three-year period. He said since only a portion of the estimated costs are affordable, the Saginors would need to take out a loan to pay the costs, and given the Fund coverage is close to maxing out, the Director is recommending the Board approve the application and grant hardship status to Mr. Saginor. Vice-Chairman Hull moved to approve the application and Mr. Fleming seconded. A vote was taken, and all members voted in the affirmative. The motion passed.

Certificates of Coverage – Ratifications:

Chairman Rocco called on Madelin Esquivel, Assistant Director, to present the lists of owners who have either been issued or denied a Certificate of Coverage for ratification by the Board.

Ms. Esquivel said the process used to review the fee applications and issue or deny a Certificate of Coverage includes a review for completeness to determine full payment was received; financial responsibility for the deductible has been demonstrated; and the owner has certified with his signature that he is in compliance with the State Fire Marshal's rules for the operation and maintenance of petroleum underground storage tanks; and, if the tanks existed in previous years, a Certificate for the subject tanks has been issued to the owner in at least one of the prior two years. She said if a Certificate has not been issued in one of the prior two years and the tanks existed during those years, the owner must comply with rule 3737-1-04.1 by demonstrating the tanks are in compliance with the Fire Marshal's rules for the operation and maintenance of USTs.

Ms. Esquivel stated that, if the requirements are met, a Certificate is issued. She said if the requirements are not met, the Certificate is denied. She explained that if the Certificate is denied, the owner is provided with an opportunity to appeal the denial. She said that, throughout the denial process, the Board's staff works closely with the owner to resolve any deficiencies. She stated that all processes within the Board's rules and Revised Code were followed to make a determination to issue or deny the Certificates of Coverage.

Ms. Esquivel requested the Board ratify the Director's actions with respect to the issuance of the program year 2021 Certificates of Coverage for the four owners of the 12 facilities included on the program year 2021 Certificates issued list.

Vice-Chairman Hull moved to ratify the issuance of the 2021 Certificates of Coverage for the facilities listed. Mr. Bryant seconded. A vote was taken, and all members were in favor. The motion passed.

Ms. Esquivel requested the Board ratify the Director's actions with respect to the issuance of the program year 2022 Certificates of Coverage for the 73 owners of the 135 facilities included on the program year 2022 Certificates issued list.

Vice-Chairman Hull moved to ratify the issuance of the 2022 Certificates of Coverage for the facilities listed. Mr. Fleming seconded. A vote was taken, and the motion passed. Mr. Burks was not present for the vote.

Ms. Esquivel requested the Board ratify the Director's actions with respect to the denial of the program year 2022 Certificates of Coverage for the 149 tanks located at the 55 facilities included on the program year 2022 Certificates denied list.

Vice-Chairman Hull moved to ratify the denial of the 2022 Certificates of Coverage that were listed. Mr. Fleming seconded. A vote was taken, and the motion passed. Mr. Burks was not present for the vote.

Ms. Esquivel requested the Board ratify the Director's actions with respect to the issuance of the program year 2023 Certificates of Coverage for the 517 owners of the 697 facilities included on the program year 2023 Certificates issued list.

Vice-Chairman Hull moved to ratify the issuance of the 2023 Certificates of Coverage for the facilities listed. Mr. Fleming seconded. A vote was taken, and all members were in favor. The motion passed.

Vice-Chairman Retirement:

Chairman Rocco announced that John Hull would not be seeking reappointment to the Board when his term comes to an end in July 2023. He said Mr. Hull has been an important part of the Board and noted he is one of three remaining long-term members to serve on the Board. He commended Mr. Hull for his many years of service and highlighted his role in the recovery of millions of dollars through the major oil litigation. He said the Board has been better because of Mr. Hull's presence on it and presented him with a gift as an appreciation for his service. Vice-Chairman Hull said working with the Board and the staff has been very rewarding for him. Mr. Hull commented that he has never known an entity like the Board where he can make recommendations and see the change being implemented. He said it has been a privilege for him to participate with the Board and offered his thanks.

Executive Session:

Chairman Rocco stated that an executive session was needed and requested a motion to enter executive session with counsel pursuant to Ohio Revised Code 121.22(G)(3) to discuss matters of pending or imminent court action. The Chairman called for a roll call. The following members voted in the affirmative: Messrs. Bergman, Bryant, Burks, Fleming, Hull, Ridi, Stephenson, King, Lenzo, and Rocco. There were no nays. The motion passed.

Reconvene Meeting

The Board adjourned the executive session and reconvened the public meeting.

Confirm Next Meeting and Adjourn:

Chairman Rocco said the next Board meeting will be held on Wednesday, September 13, 2023, at 10:00 a.m.

Vice-Chairman Hull made a motion to adjourn the meeting and Mr. Bryant seconded. All members were in favor.

Note: Numbers in brackets [ ] were incorrectly stated at the meeting. The numbers as written reflect the correct numbers from the report materials provided at the meeting.