



# Petroleum Underground Storage Tank Release Compensation Board

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## MINUTES OF THE 201st MEETING OF THE PETROLEUM UNDERGROUND STORAGE TANK RELEASE COMPENSATION BOARD November 29, 2023 – 10:00 a.m.

### BOARD MEMBERS IN ATTENDANCE

Jim Rocco  
Steve Bergman  
Don Bryant  
Larry Burks  
Scott Fleming  
Tom Stephenson  
Dan Ridi

### EX-OFFICIO MEMBERS IN ATTENDANCE

Donna Waggener, representing Director Anne Vogel, Ohio Environmental Protection Agency  
Harold Anderson, representing Robert Sprague, State Treasurer of Ohio

### OTHERS IN ATTENDANCE

Starr Richmond	Executive Director, PUSTRCB
Jonathan Maneval	Assistant Director, PUSTRCB
Don Leasor	Chief Fiscal Officer, PUSTRCB
Hannah Brame	Claims Supervisor, PUSTRCB
Cindy Stauffer	Compliance Supervisor, PUSTRCB
Val Gatallin	Claims Analyst, PUSTRCB
Vijetha Deshineni	Accounts Receivable Analyst, PUSTRCB
Beth Fligner	Assistant Attorney General
Scott Sigler	Bureau of UST Regulations
Scott Adams	State Treasurer's Office
Dan Adams	Atlas Technical Consultants

Minutes submitted by:

  
Jonathan Maneval  
Assistant Director

**Call to Order:**

Chairman Rocco convened the two hundred first meeting of the Petroleum Underground Storage Tank Release Compensation Board on Wednesday, November 29, 2023.

The following members were in attendance: Jim Rocco; Steve Bergman; Don Bryant; Larry Burks; Scott Fleming; Dan Ridi; Tom Stephenson; Donna Waggener, representing Director Anne Vogel, Ohio Environmental Protection Agency; and Harold Anderson, representing Robert Sprague, State Treasurer of Ohio.

The following member was not in attendance: Scott King, representing Director Sheryl Creed Maxfield, Ohio Department of Commerce.

Chairman Rocco announced that Larry Burks and Dan Ridi had been reappointed by Governor DeWine to serve as members of the Board.

**Minutes:**

Chairman Rocco asked if there were any comments or questions regarding the minutes from the September 13, 2023 Board meeting and there were none. Vice-Chairman Stephenson moved to approve the minutes and Mr. Bryant seconded. A vote was taken, and all were in favor. The minutes were approved as presented.

**BUSTR Report:**

Chairman Rocco called upon Scott Sigler, Corrective Action Supervisor, to present the Bureau of Underground Storage Tank Regulations' (BUSTR) report.

Mr. Sigler reported that the federal fiscal year ended in September and the corrective action section was able to close out and issue no further action (NFA) letters for 389 sites. He said the number of NFAs issued ranked Ohio third in the country behind Florida and North Carolina. He said they are processing a lot of sites and getting them to completion pretty quickly. He said the release prevention side is about midway through their three-year inspection cycle and those are going pretty well, with a lot of inspections being done.

Mr. Sigler said BUSTR's new database is expected to be completed in October or November 2024. He said BUSTR is in the process of going paperless and the new database will help to facilitate that and cut down on some redundancies. He said the goal is to have BUSTR documents be public facing with compliance inspection reports and corrective action documents available once logged into the system. He said one hurdle is files were stored on microfiche until 1999 and 27,000 files need to be converted into electronic formats so they can be pushed into the new database. He said there are about 17,000 files that still need to be addressed. He said files in another archive also need to be reviewed to make sure they are saved in the correct format and associated with only one release. He said when the project is done, the goal is to have everything electronic, and they would like to get rid of the file room. He said BUSTR is now receiving all document filings electronically and they are uploaded into their system. He commented that BUSTR's staff is pretty efficient at reviewing electronic documents compared to the paper reviews.

Mr. Sigler mentioned that a large gas station owner out of the South is making its way to northern states and is planning a facility in the Dayton area. He said it will have 120 gas pumps and BUSTR is having to rethink how inspections will be done, with multiple inspectors possibly onsite.

Mr. Burks said he was glad to hear BUSTR is working to transition to paperless. He commented that people might resist the change, but paper is the most inefficient way. Chairman Rocco said he still likes working with paper, but noted it is a lot easier to work with a searchable electronic document; especially when looking through an environmental report. Mr. Sigler said a lot of contractors are embracing it. He mentioned that the release prevention side is still receiving some paper submissions, but the new database will make it easier to submit files electronically, and the new features should help.

### **Financial Reports:**

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

Mr. Leasor announced that he accepted another position with the state and his last day at the Board will be December 8, 2023. He commented that he had worked at the Board for the past 15 and a half years and thanked Charman Rocco, Director Richmond, and the Board for the opportunity. He then introduced Vijetha Deshineni who will be taking over as the Board's new Chief Fiscal Officer. Ms. Deshineni briefly introduced herself and provided an overview of her education and experience in accounting and finance.

### ***Audit Update***

Mr. Leasor said the auditors completed their in-house portion of the audit and they were provided the draft annual financial statements, management discussion and analysis, notes to the financial statements, and the estimated claim liability report. He explained that in order to submit the audited financial statements to the Auditor of State by the December 31st deadline, the plan is to email a draft copy of the audited financial statements to the Board members no later than December 8, 2023. He asked the members to review the report and to reply with any questions or comments by December 15, 2023, so they can be addressed prior to the December 31, 2023 filing deadline. He noted that the auditors would present the final audit report at the next Board meeting.

Mr. Leasor said the Office of the Auditor of State contacted him to begin the process of selecting a new audit firm for the next five-year audit cycle. He said the Office of the Auditor of State will prepare the Request for Proposal with input from the staff, independent public accountant firms will submit their proposals, and the Auditor of State will provide those proposals to the Board's management for scoring. He requested a Board member be assigned to assist with scoring the responses to the Request for Proposal, and Ms. Waggener volunteered to assist with scoring the responses.

### ***August, September, and October Financials***

Mr. Leasor said the August, September, and October financials were emailed to each member. He said he would be discussing the October 2023 financial report.

Mr. Leasor reported that, as of November 28, 2023, the unobligated account balance is \$20.18 million. He said this amount includes \$5.89 million in STAR Ohio (State Treasury Asset Reserve of Ohio) and

\$14.29 million invested in U.S. treasuries and U.S. agency callable bonds. He said the obligated account balance for the payment of claims, as of November 28, 2023, is \$5.39 million.

Mr. Leasor said tank revenues would be discussed during his presentation of the fee statement statistics report.

Mr. Leasor reported that, as of October 31, 2023, expenses should be about 33% of the budgeted amount. He said interest income is at about 40.5% of the budgeted amount, which is ahead of projections. He reported the claims expense for the month of October was \$461,000, and, to date, \$2.73 million has been paid for claims for fiscal year 2024. He pointed out that this equates to 34.18% of the \$8 million obligated by the Board for the payment of claims for the fiscal year.

Mr. Leasor stated that a temporary employee was used to fill one position and that position was filled with a full-time employee on November 20, 2023. He said postage expenses were 56.3% of the amount budgeted. He said this was due to postage fees for the final quarter of fiscal year 2023 being paid in August. He reported the total operating expenses for the month of October were \$141,000.

#### ***Fee Statement Statistics***

Mr. Leasor said as of October 31, 2023, the per-tank fees collected for the current 2023 program year were \$8.07 million, which represents 97% of the billed amount. He said between July 1 and October 31, 2023, approximately \$77,000 was collected for prior years' fees, net of refunds of \$39,450. He said for the same period in the previous fiscal year, [\$8.2] million in tank fees were collected, and \$82,300 in prior year fees were collected net of refunds of \$77,900.

Mr. Leasor said between the fee statement mailing in April 2022 and October 31, 2023, \$8.42 million was collected for program year 2022 fees and between July 1, 2022 and June 30, 2023, just under \$107,000 was collected for prior year fees net of refunds paid of \$256,000. He said, 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. Mr. Leasor said as of October 31, 2023, fees had been paid at the standard deductible rate for 14,739 tanks and at the reduced deductible rate for 5,191 tanks. He said fees for a total of 19,930 tanks had been paid by 2,872 owners. He said this compares to fees being paid for 19,939 tanks by 2,937 owners for the same period of time in the prior year.

Mr. Leasor reported, for the program year 2022, fees had been paid for a total of 20,423 tanks by 3,027 owners.

Mr. Leasor said the \$8.15 million collected to date represents 97.7% of the \$8.35 million budgeted for program year 2023. He said the 19,930 tanks with fees paid for program year 2023, reflect 98.4% of the 20,260 tanks budgeted to apply for Certificates of Coverage this year.

Chairman Rocco thanked Mr. Leasor for his work and said he has done a great job. He wished him good luck and said he will be missed.

### **Compliance and Fee Assessment Report:**

Chairman Rocco called on Cindy Stauffer, Compliance Supervisor, to present the compliance and fee assessment report.

Ms. Stauffer said she was recently promoted to Compliance Supervisor and has taken over the supervision and oversight of the fee assessment and the Certificate of Coverage processes, which were previously done by Maddie Esquivel, who resigned in September 2023. Ms. Stauffer said she first joined the Board's staff in December of 2010 as a Compliance Analyst, was promoted to Accounts Receivable Analyst, and then to the Senior Accounts Coordinator position before being promoted to the Compliance Supervisor position.

Ms. Stauffer stated that the information being reported reflects numbers as of October 31, 2023, unless otherwise noted. She reported that refunds totaling \$39,450 had been paid since July 1, 2023. She said there are currently 2,417 pending refunds, which total \$1,338,230. She said \$4,150 of pending refunds had been used to offset outstanding fees during this program year. She said since July 1, 2023, the fees collected by the Attorney General's Office and Special Counsel less collection costs totaled \$29,133. She reported that no accounts had been sent to the Attorney General's Office for collection since July 1, 2023.

Ms. Stauffer said two Orders Pursuant to Law are currently under appeal and information to support those appeals is expected. She said two Determinations to Deny a Certificate of Coverage were under appeal and information to support those appeals is expected.

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

Ms. Stauffer reported that, as of November 14, 2023, Certificates of Coverage had been issued to 2,545 owners for program year 2023. She said there are 296 Applications for Certificates of Coverage currently being processed. She said for program year 2023, there are 41 owners with unresolved Pending Denials. She noted that no Determinations to Deny a Certificate of Coverage had been issued for program year 2023.

Ms. Stauffer stated that there are 44 uncashed refund checks totaling \$58,583. She said there are 15 owners with potential refunds totaling \$80,901 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 possible refunds totaling \$69,415 for which information had been requested, but no responses have been received.

### **Claims Reports:**

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

Ms. Brame reported, as of November 1, 2023, the total maximum liability of in-house open claims is approximately \$10.48 million. She said using the claim payout ratio of 77%, which is the average ratio over the past five years, the anticipated payout of unpaid in-house claims is about \$8.07 million.

Ms. Brame reported, as of November 1, 2023, a total of 562 claims with face values above the deductible amount were pending review and noted that review of four claims is being held pending receipt of requested information. She reported that the claims staff are currently reviewing claims received prior to April 2023. She stated that, as of November 1, 2023, a total of 29 claim determinations were under appeal. She explained that these appeals pertain to only seven release sites, as there are multiple appeals for two of those sites. She noted the staff is waiting for supporting information for 11 appeals and additional information provided is under review for 18 appeals. Mr. Ridi requested clarification between the number of pending refunds and the above-deductible claims. Chairman Rocco explained that the pending refunds shown in the compliance and fee assessment report are monies that were paid to the Board and for whatever reason, are now being refunded. He said, on the claims side, the 545 above-deductible claims are claims for reimbursement that have been submitted and are above the deductible. Ms. Waggener asked if the 545 above-deductible claims is a normal number, and Ms. Brame said the number of open claims typically hovers around 500, except for when claims associated with litigation were on hold.

Ms. Brame stated that, as of November 1, 2023, a total of 161 claims were received and a total of 171 claim determinations were issued this program year. She noted that no payment could be issued for one claim as its total face value was below the deductible amount and the release had received NFA status, and therefore, no payment could be issued. She said the average payout per claim application this program year is \$14,529 and the average claim payout is 70.6% of the net claim value (face value – deductible). She noted that on average 24.5% of the claim face value was disallowed as non-reimbursable. Chairman Rocco pointed out that the average claim payout is a lower number than what has been seen in the past and asked if there were any thoughts why. Ms. Brame said in the last several months there were specific claims settled that lacked the required cost pre-approval, which results in a 50% reduction, had significant disallowed costs due to late filing issues, or costs were attributed to an ineligible release at a site. She commented that rather than being a pattern, she felt the lower reimbursement rate was a symptom of some specific claims settled in the last couple of months and she expects that percentage to go back up.

Ms. Brame reported so far for program year 2023, a total of 29 eligibility applications were received and 36 eligibility determinations were issued. She said of these eligibility determinations, 24 were approved and 12 were denied. She said the reasons for denial included three for no release demonstrated, two for late filing of the application, two for lack of a valid Certificate of Coverage, two for out of compliance USTs, and three for no corrective actions being required by BUSTR. She reported that, as of November 1, 2023, a total of 88 eligibility applications were open. She noted that eight applications were unreviewable until the necessary reports are received and more information has been requested for three applications. She noted that, as of November 1, 2023, nine eligibility determinations were under appeal. She said additional information is expected for three appeals and information for six appeals has been received and is under review. Mr. Ridi asked if there is an appeal process for late filing. Ms. Brame confirmed there is an appeal process, and it is the same process regardless of the reason for the denial. She said once a determination is issued, the party has 30 days to file an objection, and if filed, the appeal process begins.

Ms. Brame reported, as of November 1, 2023, a total of 38 cost pre-approval requests were received.

She said the cost pre-approval requests include nine requests for new remedial action plans; 13 requests for annual costs for remedial action plans or free product recovery; one request for an interim response action requiring BUSTR approval; seven requests for either Tier 3, monitoring or calibration plans; three cost exceedance notifications; and five voluntary requests for cost pre-approval. She said as of November 1, 2023, a total of 38 cost pre-approval notifications had been issued and 41 cost pre-approval requests were pending review.

Chairman Rocco said a while back the staff took a look at how long systems like pump and treat and vapor extraction had been up and running, and asked if the staff is monitoring cost pre-approval requests to track how long the systems have been operating. Ms. Brame said ones that were identified as having a potential issue in the last analysis are being tracked, but another comprehensive analysis has not been done since then. The Chairman said he is still concerned that systems just keep on running and running and there might be an argument that something different should be done. He said if there is a site that has had a system there for 10 years, the request ought to be pulled and questions asked if something else could be done. Mr. Sigler said BUSTR reached out to a couple of consultants to have them re-evaluate the effectiveness and efficiency of certain systems. He said if the Board is aware of any system that has run its course, to let BUSTR know, and they can look at it to see if there may be a better plan to achieve the goals. Chairman Rocco said after some number of years of running a particular system, it might not be the most cost-effective way to get to an endpoint, because the equipment starts getting expensive to operate, maintain, and repair. Ms. Brame said the claims reviewers take the system's effectiveness into consideration when reviewing requests for cost pre-approval and also compare the actual duration with the number of years it was supposed to take. She said the reviewers' comments are included on the review sheet and are considered in the cost pre-approval recommendation.

Mr. Ridi asked if inflation is considered when evaluating claims. Ms. Brame said inflation is considered and mentioned there was an evaluation of labor rates resulting in the reimbursable rates being increased by about 3% effective January 1, 2022. She commented that non-labor costs are evaluated on a claim-by-claim basis. Chairman Rocco said the Board has been hesitant to set fixed rates because either everything goes up to whatever the set rate is, or a lot of consultants are lost because the rate is too low for them to justify their costs. He said costs for a truckload of pea gravel are different than what it was a few years ago and is different in southern Ohio versus northern Ohio. He said the staff tries to look at costs from a localized perspective at whether the costs are reasonable for the local area where work is being done.

### **Finance Committee Report:**

Chairman Rocco said prior to the Board meeting, the Finance Committee met to do a number of things, but primarily to look at the annual fees and deductible amounts for the next year. He said the fees have not been changed since 2019 and the Committee spent a significant amount of time considering whether the fees should be raised. He said after looking at the projections, they concluded that it did not make sense financially to raise the fees. The Chairman then called on Mr. Leasor to provide an overview of the Pro-Forma Operating Statement, which was distributed to the members.

Mr. Leasor said the five-year pro forma is based on several assumptions including projected tank counts, fees, interest rates, administrative costs, and claim expenses. He said at the beginning of the fiscal year the unobligated balance was \$27.5 million, which includes \$15 million invested in U.S. treasuries and U.S. agency callable bonds and monies in STAR Ohio and the custodial account. He said with \$8 million to be paid in claims in the 2024 through 2028 fiscal years, while maintaining fees at their current amounts, the projections indicate the unobligated account balance will be about \$19 million at the end of fiscal year 2028. He said as of June 30, 2023, the claim liability was estimated at \$35.9 million and is projected to reduce to \$19.8 million by the end of fiscal year 2028.

Mr. Bergman said his recollection was last year the Board discussed that it would need to increase fees this year and asked if there was an overriding factor that helped to achieve the no fee increase. Mr. Leasor said there was an assumption that \$8 million would be paid in claims in fiscal year 2023 and the actual amount paid was \$6.3 million. He said in addition to those savings, interest earnings in STAR Ohio and the investments increased more than in years past. Chairman Rocco said the Board does like to have a cushion but also not build too large of a Fund. He said in his personal view, it does not make sense to increase the fees unless there is a dire need to increase income.

Mr. Ridi asked if the Board is fully staffed and if it would make sense to increase tank fees to add more staff and increase resources needed to lessen the time it takes for eligibility determinations to be issued. Director Richmond said there are currently three claims analysts and one claims supervisor, and, in the past, there had been four claims analysts plus the supervisor. She said a decrease in response times would be expected if a fourth analyst is added, but she was not sure how much of a decrease it would be. She said the Board has always tried to keep a conservative number of staff in order to control expenses and said it would certainly be up for discussion. Chairman Rocco said even if a fourth analyst was added to the claims staff, it would not justify increasing fees. Mr. Burks asked if it is a correct assumption that adding a fourth analyst might not reduce the response times or determination times as much on a ratio because elements of the process are outside the agency's control, which cause delays. The Chairman said that is part of the problem and said there are no cookie-cutter evaluations and each one must be reviewed from both a financial and a technical perspective and that takes time. He said staffing is something that could be looked at and staff could be added without a fee increase. He noted that currently three positions need to be filled. Mr. Burks said a lot of issues are created when the agency cannot operate effectively and efficiently due to a personnel shortage.

Ms. Waggener said earlier it was reported that claims currently being reviewed were received prior to April 2023, and questioned if that meant people who submitted claims in April 2023 had not heard anything yet. Chairman Rocco said they may have heard something, but no determination had been issued. Ms. Brame commented that sometimes more recent claims are pulled if it makes sense for a group of sequential claims to be reviewed together to make it as efficient as possible. Ms. Waggener said, from a customer perspective, that is a long time to wait, and Chairman Rocco said it is a long time but shorter than what it was in the past. He noted the pandemic and employee changes had impacted processing times. Vice-Chairman Stephenson said Mr. Ridi's point is very valid and said the Committee discusses it every year. He mentioned that as a tank owner, he recognizes the long wait time is the biggest problem for tank owners. Mr. Burks said until the Board is fully staffed, it would be difficult to assess the impact additional staff members would have. He offered to assist with process



mapping to help find out where the choke points are. Mr. Fleming said for context, in his experience, the fastest anything would generally ever come back in other states is about four months. He said a lot of states average a year for processing, with Indiana having a backlog that used to be two to three years. Ms. Waggener asked if a standard response is sent providing the typical timeframe of when they should expect to hear back. Mr. Fleming said generally owners and consultants know the backlog and what the expectation is through their experience. The Chairman commented that agency staffing will continue to be looked at.

Chairman Rocco said the Finance Committee also looked at the deductible amounts. He said they have not been changed since the beginning, and the Committee is not recommending making any changes to them now. He then requested a motion to adopt the recommendation of the Finance Committee to make no changes to the deductible amounts or per-tank fee amounts for program year 2024. Mr. Burks so moved, and Mr. Bergman seconded. A vote was taken, and all were in favor. The motion passed.

Chairman Rocco reminded members that the Board had changed to writing checks in house, and during the previous year's audit, a comment was received indicating the procedure for check writing should be put into a formalized policy. He said the staff put together a policy titled the Warrant Requisition Policy, which the Committee reviewed. He directed members to a copy of the policy and asked Mr. Leasor to provide a quick overview of it. Mr. Leasor explained that the policy lays out the separation of duties and talks about control mechanisms. He said the procedure ensures that no one person can do all of the things needed to issue a warrant and ensures there are controls in place to protect against fraud. He then provided an overview of the check-writing process. He said once the policy is approved, it will be provided to the auditors and become part of the audit currently underway. Mr. Burks asked what would happen if both individuals needed to issue checks were out of the office and Mr. Leasor said if those two individuals were out, it would mean there would be no warrants issued. Director Richmond commented that warrants are only issued twice a month. The Chairman stated it would be an issue for management to address. The Chairman then requested a motion to adopt the Warrant Requisition Policy as recommended by the Finance Committee. Mr. Bergman so moved, and Mr. Fleming seconded. A vote was taken, and all were in favor. The motion passed.

Chairman Rocco mentioned that during the meeting, the committee reviewed the Board's existing investment, collections, and asset management policies, and neither the staff nor committee members identified any changes needed to those policies.

#### **Certificates of Coverage – Ratifications:**

Chairman Rocco called on Cindy Stauffer, Compliance Supervisor, to present the lists of owners who have either been issued or denied a Certificate of Coverage for ratification by the Board.

Ms. Stauffer 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. Stauffer 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. Stauffer requested the Board ratify the Director's actions with respect to the issuance of the program year 2022 Certificates of Coverage for the 11 owners of the 26 facilities included on the program year 2022 Certificates issued list.

Mr. Bryant moved to ratify the issuance of the 2022 Certificates of Coverage for the facilities listed. Mr. Fleming seconded. A vote was taken, and all members were in favor. The motion passed.

Ms. Stauffer requested the Board ratify the Director's actions with respect to the denial of the program year 2022 Certificates of Coverage for the 17 tanks located at the seven facilities included on the program year 2022 Certificates denied list.

Mr. Bryant moved to ratify the denial of the 2022 Certificates of Coverage that were listed. Mr. Burks seconded. A vote was taken, and all members were in favor. The motion passed.

Ms. Stauffer requested the Board ratify the Director's actions with respect to the issuance of the program year 2023 Certificates of Coverage for the 811 owners of the 1,978 facilities included on the program year 2023 Certificates issued list.

Mr. Anderson 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.

Ms. Stauffer stated that no determinations denying a Certificate of Coverage had been issued for program year 2023.

### **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. Vice-Chairman Stephenson so moved, and Mr. Fleming seconded. The Chairman called for a roll call. The following members voted in the affirmative: Ms. Waggener and Messrs. Bergman, Bryant, Burks, Fleming, Ridi, Stephenson, Anderson, and Rocco. There were no nays. The motion passed.

### ***Reconvene Meeting***

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

Chairman Rocco requested a motion to authorize the Chairman and Executive Director in consultation with the Assistant Attorney General and Special Counsel to make all decisions regarding the Board's subrogation litigation against Ashland LLC and Shell Oil Company, including negotiating and rejecting or accepting any offers to settle the litigation and the filing of a complaint in the matter currently pending against the Shell Oil Company when the appropriate documents are approved by the Executive Director, Chairman and Assistant Attorney General, but specifically excluding the approval of any final settlement agreement, which shall be approved by a quorum of the Board. Vice-Chairman Stephenson so moved, and Mr. Bryant seconded. A vote was taken, and all members were in favor. The motion passed.

**Confirm Next Meeting and Adjourn:**

Chairman Rocco said the next Board meeting will be held on Wednesday, January 10, 2024, at 10:00 a.m. He said the Rules Committee would be meeting after the Board meeting and noted that all the Board's rules are up for review as part of the five-year rule review process. Chairman Rocco stated that since no public hearing is needed to address a rule change concerning the fee and deductible amounts, the Board meeting tentatively scheduled for February 14, 2024, is cancelled.

Ms. Waggener made a motion to adjourn the meeting and Mr. Ridi 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.