

LONG ISLAND POWER AUTHORITY
MINUTES OF THE GOVERNANCE COMMITTEE MEETING
HELD ON MARCH 29, 2017

The Governance Committee of the Long Island Power Authority (the "Authority") was convened 10:35 a.m. at LIPA Headquarters, Uniondale, NY, pursuant to legal notice given on March 23, 2017; and electronic notice posted on the Authority's website.

The following Trustees of the Authority were present:

*Mark Fischl, Committee Chair
Matthew Cordaro
Suzette Smookler
Sheldon Cohen
Jeffrey Greenfield*

Representing the Authority were; Thomas Falcone, Chief Executive Officer; Jon Mostel, General Counsel; Bobbi O'Connor, Deputy General Counsel; Rick Shansky, Vice President of Operations Oversight; and Barbara Ann Dillon, Director of Human Resources and Administration.

Chair Fischl welcomed everyone to the Governance Committee meeting of the Long Island Power Authority Board of Trustees.

Chair Fischl stated the first item on the agenda is the adoption of the minutes from January 25, 2017 Committee meeting.

The Chair requested a motion to accept the minutes of the January 25, 2017 meeting. Upon motion duly made and seconded, the minutes were approved unanimously.

Chair Fischl stated that the next item on the agenda is Recommendation to Approve Policies on Procurement, Property Disposition, Property Acquisition and Lobbying, and Employee and Trustee Codes of Ethics and Conduct, which would be presented by Jon Mostel

Mr. Mostel presented the following action item and took questions from the Trustees:

Requested Action

The Governance Committee is requested to adopt a resolution recommending that the full Board approve (i) the Board Policies on Property Disposition, Real Property Acquisition, Procurement Lobbying and Procurement Contracts, in the forms attached hereto as Exhibits F-I, respectively, and (ii) the Trustee Code of Ethics and Conduct, in the form attached hereto as Exhibit J.

Board Policy on Property Disposition

Section 2896 of the PAL requires the Authority to adopt, and periodically review and approve comprehensive guidelines regarding the use, awarding, monitoring and reporting of contracts for the disposal of Authority property. Such guidelines were last reviewed and approved by the Trustees on May 18, 2016. Based on Staff's review, the proposed Board Policy on Property Dispositions is intended to replace the prior guidelines and incorporates the following material modifications:

- (i) clarifies that the policy applies to the Authority, as well as Long Island Lighting Company and the UDSA to the extent the Authority acts as servicer and administrator to the UDSA;
- (ii) specifies that none of electricity or natural gas or any attributes derived therefrom, shall be considered Property for purposes of, and as defined in, the policy; and
- (iii) increases the threshold for Property Disposition Contracts requiring Board approval from \$250,000 to amounts greater than \$1,000,000.

The Authority is required to annually file with the State and make available on its website a report on all property dispositions, including the value received and method of procurement, which is provided to the Board of Trustees.

Board Policy on Real Property Acquisition

Section 2824 of the PAL requires the Authority to establish policies and procedures regarding, among other things, the Authority's acquisition of real property. Such policies were last reviewed and approved by the Trustees on April 28, 2011. Based on Staff's review, the proposed Board Policy on Real Property Acquisitions is intended to replace the prior policies and incorporates the following material modifications:

- (i) clarifies that the policy applies to the Authority, as well as Long Island Lighting Company and the UDSA to the extent the Authority acts as servicer and administrator to the UDSA;
- (ii) limits the policy to the acquisition of real property (and not personal property) consistent with the requirements of Section 2824 of the PAL; and
- (iii) increases the threshold for Property Acquisition Contracts requiring Board approval from \$250,000 to amounts greater than \$1,000,000.

The Authority is required to annually file with the State and make available on its website a report on all property real acquisitions, including the value and method or procurement, which is provided to the Board of Trustees.

Board Policy on Procurement Lobbying

The Authority has adopted a policy implementing the requirements of the procurement lobbying law found in State Finance Law and the lobbying contacts provisions found in Section 2987 of the PAL. That policy was last reviewed and approved by the Trustees on March 24, 2011. Based on Staff's review, the proposed Board Policy on Procurement Lobbying is intended to replace the prior policy and the only material modification is to clarify that the policy applies to the Authority, as well as Long Island Lighting Company and the UDSA to the extent the Authority acts as servicer and administrator to the UDSA.

Board Policy on Procurement Contracts

Section 2879 of the PAL requires the Authority to periodically review and approve procurement guidelines, which set forth LIPA's operative policy and instructions regarding the use, awarding, monitoring and reporting of procurement contracts. Those guidelines were last reviewed and approved by the Trustees on May 18, 2016. Based on Staff's review, the proposed Board Policy on Procurement Contracts is intended to replace the prior procurement guidelines and incorporates the following material modifications:

- (i) clarifies that the policy applies to the Utility Debt Securitization Authority to the extent the Authority acts as servicer and administrator to the UDSA;
- (ii) specifies that certain construction contracts may be subject to the provisions of State Finance Law commonly referred to as the Wick's Law;
- (iii) for awards based on Best Value, removes the requirement to include in the procurement process an evaluation methodology that demonstrates how Best Value will be achieved;
- (iv) increases the threshold for awards, without competition, of certain contracts for Goods and construction from \$20,000 and \$35,000 respectively, to less than \$50,000; and
- (v) increases the threshold for Procurement Contracts for Goods, Services or Technology requiring Board approval from \$250,000 to amounts greater

than \$1,000,000, provided that such Procurement Contract does not exceed one year in length.

The Authority's Procurement Contracts with a value of over \$50,000 are subject to the review and approval of the Office of the Attorney General (as to form) and the Office of the State Comptroller.

Code of Ethics and Conduct

The Authority has previously adopted policies regarding the ethical conduct of its Trustees and former Trustees, including their responsibilities under the Public Officers Law and certain Executive Orders. Those policies are embodied in the "Trustee Code of Ethics and Conduct of the Long Island Power Authority" (the "Code"). The Code was last reviewed and approved by the Board on June 26, 2015. Based on Staff's review, the following material modifications to the Code are recommended:

- (i) adding a statement that Trustees must report to the Authority's General Counsel any communication directed to the Trustee in cases where a reasonable person would infer that the communication was intended to influence the consideration or outcome of an active procurement being conducted by the Authority or its service provider; and
- (ii) revising the definition of "conflict of interest" to more closely track the Authority Budget Office's model conflict of interest policy.

Recommendation

Based upon the foregoing, I recommend the approval of the above requested action by adoption of resolutions in the forms attached hereto as Exhibits A through E.

A motion was made and seconded, and the Trustees unanimously adopted the

following resolutions:

RECOMMENDATION FOR APPROVAL OF BOARD POLICY ON PROPERTY DISPOSITION

RESOLVED, that the LIPA Board of Trustees hereby approves and adopts the Board Policy on Property Disposition Guidelines, in the form presented at this meeting to be effective immediately.

RECOMMENDATION FOR APPROVAL OF BOARD POLICY ON REAL PROPERTY ACQUISITION

RESOLVED, that the LIPA Board of Trustees hereby approves and adopts the Board Policy on Real Property Acquisition, in the form presented at this meeting to be effective immediately.

**RECOMMENDATION FOR APPROVAL OF THE BOARD POLICY ON
PROCUREMENT LOBBYING**

RESOLVED, that the LIPA Board of Trustees hereby approves and adopts the Board Policy on Procurement Lobbying, in the form presented at this meeting to be effective immediately.

**RECOMMENDATION FOR APPROVAL OF THE BOARD POLICY ON
PROCUREMENT CONTRACTS**

RESOLVED, that the LIPA Board of Trustees hereby approves and adopts the Board Policy on Procurement Contracts, in the form presented at this meeting to be effective immediately.

**RECOMMENDATION FOR APPROVAL OF THE TRUSTEE CODE OF ETHICS AND
CONDUCT**

RESOLVED, that the LIPA Board of Trustees hereby approves and adopts the Trustee Code of Ethics and Conduct, in the form presented at this meeting to be effective immediately.

Chair Fischl stated that the next item on the agenda is Consideration of Approval of Trustee Competencies and Attributes Profiles, which would be presented by Barbara Ann Dillon.

Ms. Dillon presented the following action item and took questions from the Trustees:

Requested Action

The Governance Committee is requested to adopt a resolution approving the profile for competencies and professional attributes for Long Island Power Authority (LIPA or the “Authority”) Trustees, in the form attached hereto as Exhibit B.

Background

Section 1020-d of the LIPA Reform Act requires that all Trustees appointed to the LIPA Board of Trustees (the “Board”) shall reside in the service territory and have relevant utility, corporate board or financial experience.

Section 2824 of the Public Authorities Law of the State of New York requires that the board of each public authority establish a governance committee whose responsibilities include advising those responsible for appointing Trustees on the skills and experiences

required of potential Trustees. LIPA's Governance Committee's charter provides that the Governance Committee is responsible for "developing a description of the competencies and personal attributes required of Trustees to assist those authorized to appoint members to the Board in identifying qualified individuals." In addition, the LIPA Board's Policy on Development, Retention, and Succession requires the Authority to establish and maintain skills profiles for the Board and its Committees.

In response to these requirements, the Governance Committee has prepared a profile for competencies and professional attributes to provide guidance to those charged with appointing Trustees to the LIPA Board about the key roles and responsibilities of LIPA's Board members and the competencies, skills and experience necessary to satisfy the requirements of the LIPA Reform Act and to govern the business of the Authority. This profile builds on the description of Trustee skills and competencies developed by the LIPA Board in 2012 and shared with the appointing entities at that time. The proposed profile is also responsive to the Department of Public Service's 2013 management and operations audit of LIPA which was conducted by NorthStar Consulting Group and included, among other things, a recommendation that LIPA should, "Work with appropriate agencies and officials to encourage maintenance of the Board at full strength and to identify candidates for the Board with experience with larger corporations and energy or utility companies."

Recommendation

Based upon the foregoing, I recommend the approval of the above requested action by adoption of the resolution in the form attached hereto as Exhibit A.

A motion was made and seconded, and the Trustees unanimously adopted the

following resolution:

APPROVAL OF PROFILE FOR COMPETENCIES AND PROFESSIONAL ATTRIBUTES FOR TRUSTEES

RESOLVED, that the Governance Committee of the Long Island Power Authority ("LIPA") Board of Trustees hereby approves and adopts the Profile for Competencies and Professional Attributes for LIPA Trustees, in the form presented at this meeting.

Chair Fischl stated that the next item on the agenda is discussion of Committee's Annual Report to the Board of Trustees, which would be presented by Jon Mostel.

Mr. Mostel discussed the Committee's Annual Report to the Board of Trustees and took questions from the Trustees.

Chair Fischl then entertained a motion to adjourn, which was duly made and seconded, after which the meeting concluded at approximately 10:50 a.m.