

OHIO AIR QUALITY DEVELOPMENT AUTHORITY

Mike DeWine
Governor

Members

James S. Simon
Chairman

Michael H. Keenan
Vice-Chairman

Ted Celeste
Michael F. Curtin

Ex Officio

Lance D. Himes, Interim Director
Ohio Department of Health

Laurie Stevenson
Ohio Environmental Protection Agency

Executive Director
Christina O'Keefe

Secretary-Treasurer
Christina O'Keefe

Legal Counsel
Stephen J. Smith, Esq.

Programs
Project Development and Financing
Clean Air Resource Center

The regular meeting of the *OHIO AIR QUALITY DEVELOPMENT AUTHORITY* will be held on Tuesday, November 10, 2020 at 10:00 am via video conference.

The meeting will be conducted in accordance with open meeting laws within the State of Ohio. During the current state of emergency and to protect employees, partners and the public, the Authority is offering video conference access and a call line as an option to attend the meeting remotely. To help ensure capacity on this conference line, please RSVP to info@aqda.state.oh.us with your interest to participate.

To access the meeting by video, choose this link: [Join Microsoft Teams Meeting](#)

**To access the meeting by telephone,
dial: 614.721.2972,,933 708 362#**

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OHIO AIR QUALITY DEVELOPMENT AUTHORITY



TUESDAY, NOVEMBER 10, 2020

TENTATIVE AGENDA

The meeting will be conducted in accordance with open meeting laws within the State of Ohio. During the current pandemic and to protect employees, partners and the public, the Authority is offering video conference access and a call line as an option to attend the meeting remotely. To help ensure capacity on this conference line, please RSVP to info@aqda.state.oh.us with your interest to participate.

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To access the meeting by telephone, dial: 1 614-721-2972 Conference ID: 933 708 362#

1. [Welcome and Introduction of Guests](#) [Chairman](#)
2. [Minutes October 13, 2020](#)
3. [Resolution 20-42 \(CAIP\)](#) [Dayton Area Lift Ltd](#)

A resolution authorizing the issuance of not to exceed \$1,500,000 in principal amount of an air quality revenue bond of the State of Ohio in order to assist Dayton Area Lift Ltd in the financing of costs of air quality facilities, thereby promoting the public purposes of Ohio Revised Code Chapter 3706; providing for the assignment of revenues for the payment of said bond; authorizing the execution and delivery of a loan agreement, an assignment of loan agreement and the bond; and authorizing and approving related matters.

4. [Resolution 20-43 \(Administrative\)](#) [Contract Revisions for General Counsel](#)

A resolution Authorizing an Amendment to the Contract for General Counsel Services.

5. [Resolution 20-44 \(Administrative\)](#) [OAQDA Amended Bylaws](#)

A resolution Adopting amended Bylaws for the Authority.

6. [Resolution 20-45 \(Administrative\)](#) [Electronic Meeting Software](#)

Ratifying the purchase of electronic meeting software and approving the purchase of related IT equipment to conduct the Authority's business during board meetings.

7. [Interim Executive Director's Report](#) [Brooke Grant](#)
8. [Adjournment](#)

OHIO AIR QUALITY DEVELOPMENT AUTHORITY

The regular meeting of the Ohio Air Quality Development Authority (“Authority”) was held remotely, on Tuesday, November 10, 2020 at 10:00 am.

As authorized through House Bill 197 as passed by the General Assembly and signed into law by Governor DeWine, the Authority conducted this meeting using online videoconferencing technology via Microsoft Teams in order to protect the public during the declaration of an emergency related to COVID-19 pandemic. A telephone number and videoconference link to the meeting was published on the Authority’s website and distributed to persons of interest prior to the meeting and in compliance with Open Meeting Laws.

These are the minutes of the meeting.

The following members were present:

Jim Simon, Chairman
Ted Celeste
Michael Curtin
Cara Dingus Brook

Ex-Officio members present:

Laura Factor, Ohio Environmental Protection Agency
Gene Phillips, Ohio Department of Health

The following members were absent:

Michael Keenan, Vice Chairman

Ex-officio members absent:

Staff present:

Brooke Grant, Interim Executive Director
Sandra Langston, Administrative Manager
Dawn Pertner, Fiscal Officer
Gabe Lorenz, Customer Service Coordinator

General Counsel:

Thad Boggs, Frost Brown Todd

Guests present:

Todd Smith, TE Fusion
Blake Beachler, Calfee
Mary Sullivan, Dinsmore & Shohl
Marisa Long, Inspire PR Group
John Kirschner, GB Solutions
Andy Holzhauser, Donovan Energy

Rob McCarthy, Bricker & Eckler
Seth Doliboa, Dayton Area Lift
Jeff Liebert, TE Fusion
Katie Lundy, Inspire PR Group
Jess Ensley, Inspire PR Group

This meeting of the Authority has been duly posted and given to all news media, organizations and other persons who requested such information in accordance and in full compliance with Chapter 3706-1 of the Ohio Administrative Code.

The Chairman called the meeting to order at 10:00 a.m.

1. The Chairman welcomed everyone.

The Chairman noted the meeting was being conducted through Microsoft Teams videoconferencing, in compliance with the Open Meetings Act and the administrative rules of the Authority.

Ms. Sandra Langston called the Roll:

Mr. Simon – Yea

Mr. Keenan - absent

Mr. Celeste - Yea

Mr. Curtin – Yea

Ms. Dingus Brook – Yea

Ms. Factor – Yea

Mr. Phillips – Yea

General Counsel confirmed compliance with the Open Meetings Act, that a quorum of six members was present, and that it remained an open, public meeting. General Counsel confirmed that the meeting was fully in compliance with state law including House Bill 197.

Chairman Simon stated that the Authority would be explicit on which item was on the table for discussion or vote, and that he would recognize members and guests by name and title during discussions or ask them to introduce themselves. Additionally, he stated that roll call votes would be taken for each vote, and that if any member left the meeting it would be noted in the minutes. As part of the orientation to the meeting, the Chairman asked Mr. Langston to provide information about Microsoft Teams software and the ground rules for the meeting.

The Chairman asked Ms. Langston to announce all guests present on the meeting. Ms. Langston announced all known guests and staff and asked those not readily identifiable to introduce themselves.

Chairman Simon announced that Executive Director O’Keeffe welcomed a daughter to her family and expressed his congratulations to her family. He noted that Director O’Keeffe would likely be rejoining the Authority in January and thanked Brooke Grant for serving as Interim Director.

2. Minutes – Regular business meeting October 13, 2020.

Mr. Celeste moved for approval of the minutes. Mr. Curtin seconded.

Roll call vote:

Mr. Simon – Yes

Mr. Celeste – Yes

Mr. Curtin – Yes

Ms. Dingus Brook – Yes
Ms. Factor – Yes
Mr. Phillips – Yes

Motion passed. Minutes adopted.

3. Resolution 20-42 (CAIP)

Dayton Area Lift Ltd.

A resolution authorizing the issuance of not to exceed \$1,500,000 in principal amount of an Air Quality Revenue Bond of the State of Ohio in order to assist Dayton Area Lift, Ltd. or an affiliate thereof in the financing of costs of air quality facilities, thereby promoting the public purposes of Ohio Revised Code Chapter 3706; providing for the assignment of revenues for the payment of said bond; authorizing the execution and delivery of a loan agreement, an assignment of loan agreement and the bond; and authorizing and approving related matters.

Interim Director Grant introduced this Resolution for Dayton Area Lift Ltd, which is a project in Montgomery County involving retrofit component isolation energy efficiency improvements and a solar array. She introduced Mr. Seth Doliboa from the company and Mr. Todd Smith, their energy consultant.

Mr. Smith thanked the Authority for the opportunity to present as well as Interim Director Grant for her help. Mr. Smith stated that the project involves a building that used to be an ice cream factory and was built in 1900. The building includes wood flooring and a freight elevator. Mr. Smith noted that the original HVAC equipment is old enough that it is going to a museum. Additionally, the windows will need replacement and the bricks need work. Improvements will include an HVAC system that uses energy recovery to reduce energy consumption, new windows, complete envelope renovation, a new cool roof system, weatherization and new insulation, LED lighting, and a solar array. These improvements total approximately \$1.3 million. He then discussed the proposed project benefits that are estimated to include 52 percent energy reduction over code.

Mr. Celeste moved to approve Resolution 20-42. Ms. Dingus Brook seconded.

Roll call vote:

Mr. Simon – Yes
Mr. Celeste – Yes
Mr. Curtin – Yes
Ms. Dingus Brook – Yes
Ms. Factor – Yes
Mr. Phillips – Yes

Motion passed. Resolution adopted.

4. Resolution 20-43 (Administrative)

Contract Revisions for General Counsel

A resolution Authorizing an Amendment to the Contract for General Counsel Services.

Interim Director Grant introduced this Resolution, which is a follow up from discussions at the October meeting regarding proposed revisions to the Contract for General Counsel Services. This amendment will clearly define the term for General Counsel services ending December 2021. Chairman Simon stated that the discussion in October was comprehensive and beneficial, and that the relationship with trusted advisors is beneficial to the Authority but noted that the Authority is required to be a responsible steward of taxpayer funds. Chairman Simon said the adjustments to the retainer is due to an increase in workload during the period of January 2020 to date. He thanked General Counsel for a smooth transition from Steve Smith as lead counsel to Thad Boggs, and noted that Mr. Boggs will have time to establish himself in the position over the next year.

Ms. Dingus Brook moved to approve Resolution 20-43. Ms. Factor seconded.

Roll call vote:

Mr. Simon – Yes

Mr. Celeste – Yes

Mr. Curtin – Yes

Ms. Dingus Brook – Yes

Ms. Factor – Yes

Mr. Phillips – Yes

Motion passed. Resolution adopted.

5. Resolution 20-44 (Administrative)

OAQDA Amended Bylaws

A resolution Adopting amended Bylaws for the Authority.

Chairman Simon asked General Counsel to speak about the proposed amendments to the Authority's bylaws. General Counsel stated that the amendments began as an attempt to clean up references to the Ohio Administrative Code that changed as a result of the Authority's rule revisions and rescission during the five-year rule review process with the Joint Committee on Agency Rule Review (JCARR). During the review, he and Executive Director O'Keeffe looked at other language and references to perform general maintenance. Revisions include language reflective of newer technology, particularly with regards to records keeping, and following suggestion from Member Dingus Brook, updates to gender-neutrality in the language of the bylaws. Additionally, the position of Assistant Secretary-Treasurer, which is a seat that has never been filled, was struck, and assumption of Secretary-Treasurer duties is placed with the Vice Chairperson position in the absence or disability of the Secretary-Treasurer.

Ms. Factor asked about succession of the Secretary-Treasurer position, noting that she had performed that role for a little while some time ago and asked if the bylaws allowed for an ad hoc arrangement if necessary during a meeting. General Counsel noted that the Vice Chairperson would automatically assume those duties, but the next time the Authority met following incapacitation of the Secretary-Treasurer, another could be appointed. Chairman Simon asked what would happen if there was no Vice Chairperson. General Counsel stated that the Chairperson would not perform that role, but if there was no Vice Chairperson or Secretary-Treasurer an emergency meeting could be held to appoint a new Vice Chairperson or Secretary-Treasurer. Chairman Simon asked about the role of the Secretary-Treasurer in providing meeting notices. General Counsel stated that the meeting notice does not have to be provided by an appointed Secretary-Treasurer, as the Secretary-Treasurer delegates this duty to staff.

If the Secretary-Treasurer position is vacant, staff can continue to prepare meeting notice and agenda in coordination with the Chairman. Chairman Simon asked if it is a legal opinion of General Counsel that, in the absence of a Vice Chairperson and Secretary-Treasurer, a meeting could be legally and validly held. General Counsel confirmed that is correct.

Mr. Curtin moved to approve Resolution 20-44. Ms. Dingus Brook seconded.

Roll call vote:

Mr. Simon – Yes
Mr. Celeste – Yes
Mr. Curtin – Yes
Ms. Dingus Brook – Yes
Ms. Factor – Yes
Mr. Phillips – Yes

Motion passed. Resolution adopted.

6. Resolution 20-45 (Administrative)

Electronic Meeting Software

Ratifying the purchase of electronic meeting software and approving the purchase of related IT equipment to conduct the Authority's business during board meetings.

Chairman Simon noted that this Resolution is to ratify the purchase of electronic meeting software, which occurred under the Executive Director's purchasing authority granted under the Pandemic Plan. As a matter of practice, the purchase is being ratified by approval of this resolution.. Interim Director Grant noted that this was done to allow for enough time for training and preparation of the software in anticipation of the January 2021 rollout. She further noted that it would allow for increased efficiency.

Ms. Factor moved to approve Resolution 20-37. Mr. Celeste seconded.

Roll call vote:

Mr. Simon – Yes
Mr. Celeste – Yes
Mr. Curtin – Yes
Ms. Dingus Brook – Yes
Ms. Factor – Yes
Mr. Phillips – Yes

Motion passed. Resolution adopted.

7. Interim Executive Director's Report

Interim Director Grant welcomed Dawn Pertner, who is returning from leave on a part-time basis through November.

Interim Director Grant then noted that it is still uncertain as to the status of the December meeting,

based on the status of pending projects. Staff is monitoring project activity and a decision will be made in the next couple weeks after consultation with Chairman Simon. She confirmed that Authority meetings will follow the regular schedule of 10 a.m. on the second Tuesday of the month during the upcoming year.

OAQDA continues to see a healthy project activity, even as some of the larger projects have been delayed. She further noted that multiple applications are being anticipated over the next couple weeks, and that a CARC application had been received. Three other applications are currently under review. She stated that the January agenda could be substantial.

She noted that the Fall newsletter was distributed the previous week and thanked Inspire PR for their assistance in that project. She stated that stakeholder outreach for the CAIP guidelines is continuing. She also announced that OAQDA will be participating in a session with the Mid-Ohio Regional Planning Commission (MORPC)'s December Energy Academy for an audience of about 75 individuals.

Chairman Simon thanked Interim Director Grant. He provided additional details about the possible December meeting, stating that he continues to communicate with the Governor's office regarding a possible extension of the statute which allows for virtual meetings. He hopes that if there is a need for a December meeting, it can be held virtually.. He noted that if the statute is not extended, attempts would be made to hold any potential meeting in November. He asked General Counsel to provide general non-privileged updates on the House Bill 6 litigation. Chairman Simon stated that as of the time of the meeting, OAQDA was not a party to any litigation. If OAQDA became a party to any litigation due to its appointed duties under House Bill 6, a meeting including an executive session would be held to discuss legal matters.

General Counsel stated that the Authority has been working to fulfill its duties in the House Bill 6 program, which was adopted without either support or opposition from the Authority. The Authority was responsible for reviewing generation by eligible generating facilities and approving credits for distribution of payments by the Treasurer of State. The two facilities that were active and producing electricity as of the time of the meeting were the Davis-Besse and Perry Nuclear plants, which have been reporting 2020 generation to the Authority. The Authority had no further action to take, other than receiving the reports, until April of 2021. General Counsel stated that there have been numerous developments with respect to House Bill 6, including lawsuits by the Attorney General's Office naming several entities and individuals involved in passing House Bill 6. These lawsuits allege that individuals were engaged in conspiracy. The Attorney General requested that they not be allowed to receive benefits of the bill. No decision had been made regarding the merits of the claims, and no party had contacted the Authority with intent to add it to the suit. Another suit that had been filed was by the cities of Columbus and Cincinnati, which also named the Public Utilities Commission and charged that the fee rider that would fund the payments under House Bill 6 was an improper tax under the Ohio constitution. General Counsel stated that there was no indication that the Authority would be added as a party to that suit, but that the Authority would continue to monitor these cases and other developments to protect the Authority's legal interests and monitor what the Authority's responsibilities would continue to be under the law.

8. Adjournment

The Chairman adjourned the meeting at 11:49 a.m.

The regular meeting of the *OHIO AIR QUALITY DEVELOPMENT AUTHORITY* will be held remotely on Tuesday, December 8, 2020.