

**MINUTES**  
**Petroleum Storage Tank Insurance Fund**  
**Board of Trustees Meeting**  
**September 20, 2017**

**Courtyard by Marriott, Hotel and Event Center, Salon A/B, Columbia, MO**  
**Start Time: 9:33 a.m.**

Chairman Greer called the meeting to order.

**Trustees Present:**

James Greer, Chairman  
John Albert  
Tom Kolb  
Ski Mariea  
Don McNutt  
Kristen Paulsmeyer  
Katie Jo Wheeler

**Absent:**

Jim Ford, Vice Chairman  
Danny Opie  
Tom Pfeiffer

**Staff Present:**

Jeff Blaylock, Ford, Parshall & Baker  
Carol R. Eighmey, Executive Director  
Pat Eriksen, Williams & Company Consulting  
Thais Folta, Miller, Pearson, Gloe, Burns, Beatty & Parrish  
Dan Henry, Williams & Company Consulting  
Craig Jacobs, Assistant Attorney General  
Diane James, Executive Assistant  
James Layton, Tueth Keeney Cooper Mohan & Jackstadt  
Patrick J. Vuchetich, Williams & Company Consulting  
David Walters, Williams & Company Consulting

**Others Present:**

Keith Francis, City of Branson  
Tim Gerding, Evans & Dixon  
Lynn Graves, Graves and Associates  
Ken Koon, Chief, Tanks Section, Hazardous Waste Program, MoDNR  
Ron Leone, Executive Director, MPCA  
Daniel Lupton, Tayler & Mulder  
Heather Peters, Compliance/Enforcement Section, Hazardous Waste Program, MoDNR  
Ron Willenbrock, Evans & Dixon

## **Review and Approval of Minutes – August 2, 2017 Open Session Meeting**

Katie Jo Wheeler moved that the minutes from the August 2, 2017 Board meeting be approved. Tom Kolb seconded. Motion carried.

### **Claim Appeals**

*City of Branson, Claim 63268* – Tim Gerding, Ron Willenbrock, and Keith Francis introduced themselves. Mr. Gerding briefly reviewed his recent letter, which had been provided to the Trustees in their meeting materials. Mr. Willenbrock stated he and the City believe there should be a 50/50 apportionment between the 2013 and 2014 releases and noted \$800,000 had been spent on cleanup to date, with a second phase of work still to be done.

Chairman Greer said he normally asks Williams & Company to explain their decision before opening the floor for questions, but had been informed Williams & Company has nothing to add beyond the correspondence already sent. He then invited the Trustees to ask questions.

Tom Kolb asked the City to clarify whether it was only asking the Board to reverse Williams' decision that the appeal was untimely or was asking the Board for a payment. Mr. Willenbrock said the City is asking for money and wants to know if its claim can "go forward" or if it must "go to circuit court."

Trustees Kolb, Albert, and McNutt then questioned Mr. Francis about the City's AST leak, inventory records, and oversight of operations; they expressed puzzlement about how the City could lose so much fuel for several months after the AST was installed in October 2013 without realizing there was a problem. Mr. Francis said the City was aware they were losing fuel and repeatedly called Broyles, who re-calibrated gauges and checked the system for leaks, but only discovered gasoline and diesel fuel were leaking from the new AST system when the valve pit was inspected in March 2014. He said the City uses about 3,000 gallons/week, the majority of which is gasoline. He confirmed an estimated 20,000 gallons of fuel was lost from the two-compartment, 10,000-gallon tank. Mr. Albert asked how Broyles was able to conduct a line tightness test without finding the leak; Mr. Francis responded he did not know.

Mr. Gerding indicated the City was not asking for money; rather, it was only asking the Board a procedural question – i.e., Whether the City's claim was correctly or incorrectly denied. Ms. Eighmey sought to clarify, noting her letter specifically asked the City to clarify for the Board how much money it was asking the Board to pay. Mr. Willenbrock said Leigh Environmental had generated the opinion that a 50/50 split of cleanup costs for each of the confirmed releases was a reasonable split; he confirmed the City is not asking the PSTIF Board to reimburse for the lost fuel.

Ms. Folta noted the City had not submitted any documentation indicating it has incurred any costs and suggested the City has a subrogation claim against Broyles. Mr. Willenbrock indicated the City had entered into a written agreement with Broyles and its insurer, Mid-Continent, specifying that the City would reimburse its appropriate share of cleanup costs. Ms. Folta observed the PSTIF Board of Trustees was not a party to that agreement and had not seen it. Mr. Willenbrock promised to send a copy to the Board.

Ms. Eighmey asked Mr. Willenbrock if he or his firm was representing Broyles, in addition to representing the City; he responded they are not.

Chairman Greer thanked Messrs. Francis, Gerding, and Willenbrock for attending and providing information on the City's appeal. He told them the Trustees would discuss the matter later that day in closed session and either the Executive Director or the Board's legal counsel would communicate the Board's decision to the City in the next few days.

Chairman Greer then noted an appeal from Pilot Travel Centers relating to their Higginsville truck stop was on the agenda, but – as indicated in the meeting materials – that appeal would be postponed to a future meeting.

### **PSTIF Monthly Reports and MoDNR FY17 Year-End Report**

Chairman Greer asked if there were any questions on the financial reports, activity reports, or large-loss claims; there were none. There also were no questions or comments on DNR's year-end financial report and statistics.

### **FY17 Actuarial Report**

Chairman Greer introduced Daniel Lupton from Taylor & Mulder to present the results of their actuarial analysis.

*[James Layton arrived at the meeting.]*

Using slides (filed with these minutes), Mr. Lupton reviewed the scope of work for the project and summarized the findings and conclusions in the report. He explained it contains a range of estimates with different likelihoods. He reviewed trends in claim frequencies and severities. Finally, he discussed the pro forma financial projections contained in the report, large-loss claims, and pools of claims older than 5 and 10 years.

The Trustees asked several questions, including whether Mr. Lupton had any recommendations regarding the transport load fee. Mr. Lupton responded his calculations indicate an increase to \$46.11 on January 1, 2018 would be needed to cover the liabilities projected under a "normal" claims scenario; under the scenario where a "minor increase" in claim frequency occurred prior to the sunset date, a fee of

\$50.04 on January 1, 2018 would be needed to cover projected claim liabilities, and if the “high increase” in claim frequency played out, \$65.36 would be needed. He noted if the sunset date were to be extended, the underlying assumptions would change and these projections would be considerably different.

Tom Kolb moved to accept the FY17 actuarial report as presented. Ski Mariea seconded. Motion carried.

### **FY17 Audit Report**

Chairman Greer introduced Lynn Graves from Graves and Associates to explain the audit report. Mr. Graves explained the key findings, noting Graves had issued an “unmodified opinion,” which means it found nothing of concern in the financial records. He noted the report shows a 1% increase in revenues and a 20% increase in operational expenses, producing a net operating loss of \$6.4 million, not an unexpected result. He observed the Trustees have authority to raise fees to cover projected deficits, as had been discussed by the actuary. He said the Board’s GASB 68 liability for unfunded pension liability increased by about \$700,000.

Trustees asked a few questions to clarify some details. Then Tom Kolb moved to accept the FY17 financial audit report as presented. Ski Mariea seconded.

Ms. Wheeler suggested the Board table its vote, since the report had only been distributed the day before the meeting and she had not had time to review it. Other Trustees indicated they were comfortable voting. Discussion followed about the schedule for Graves to produce the report, with Mr. Graves noting his firm has to wait for data from various state agencies before it can finalize the report, which made it challenging to complete the report by the Trustees’ meeting on September 20.

After discussion, John Albert, James Greer, Tom Kolb, Don McNutt, and Kristen Paulsmeyer voted in the affirmative; Ski Mariea and Katie Jo Wheeler voted against. Motion carried.

### **Review/Approve FY19 Budget Requests**

Chairman Greer asked Ms. Eighmey to describe Governor Greitens’ new budgeting approach. Ms. Eighmey explained the Governor and his COO have challenged executive branch agencies to re-evaluate their budgets in a business-like manner by identifying clear goals they aim to accomplish with the resources available and presenting budget requests using those performance metrics. She said she is familiar with the concepts, which have been used in business for many years, but noted it is a more performance-based budgeting approach than typically used in state government. She predicted it will be a positive change in Missouri state government, though how each agency implements it remains to be seen. She said she hopes to dialogue with

MoDNR, MDA, and OA over the coming months to better understand those agencies' goals and, where possible, align the PSTIF's goals with theirs.

*Department of Revenue* – The chairman reported the Department is again requesting funding for one person to collect the transport load fee.

Tom Kolb moved to approve the Department of Revenue's funding request for FY19 of \$29,462 for salary, expenses and equipment, plus payroll taxes, fringe benefits and any COLA added by the Legislature. Ski Mariea seconded. Motion carried.

*Attorney General's Office* – Chairman Greer reminded the Board the extra person funded for the last several years is no longer being requested, noting the AGO's funding request for FY19 is designed to pay for ½ FTE.

Tom Kolb moved to approve the Attorney General's Office FY19 funding request for \$27,712 for salary, expenses and equipment, plus payroll taxes, fringe benefits and any COLA added by the Legislature. Ski Mariea seconded. Motion carried.

*PSTIF Board of Trustees* – The chairman invited a motion regarding the Board's FY19 appropriations. Ski Mariea moved to request \$252,550 for salaries, plus associated fringe benefits and any COLA enacted, an increase of \$125,000 which would allow the Board to add staff; he further moved to request \$2,095,354 for expense and equipment, with 5% flexibility; and \$20,070,000 for claims and refunds of participation fees, for an estimated total of \$22,417,904. Tom Kolb seconded. There was a brief discussion, during which Ms. Wheeler asked and Ms. Eighmey summarized the rationale for requesting the increased appropriation. Motion then carried.

*Department of Natural Resources* – Chairman Greer announced MoDNR's FY19 budget request would be considered at the November meeting, as was done last year. He observed that Governor Greitens' budget directive fits well with the Trustees' prior request to the Department to build performance metrics into its budget request. He urged Ms. Wheeler to communicate to other MoDNR personnel that the Trustees would like to receive the Department's request "sooner, rather than later." Ms. Wheeler agreed to do so.

### **Claims and Cleanups**

Chairman Greer invited Ms. Eighmey to comment on the summary in the meeting materials. Ms. Eighmey complimented all who continue to work to accelerate the pace of cleanups, noting the actuary could see this recent acceleration in the PSTIF data. She cautioned there are still a number of really old claim files open, observing this situation is not unique to Missouri. There were no questions or comments from Trustees.

## **Updates and Administrative Issues**

*Pre-1981 USTs* – Chairman Greer commented it's been a year since owners were alerted their tanks weren't compatible with ethanol-blended gasoline and directed Trustees' attention to the report in their notebooks showing nearly half of those owners are moving forward with a solution.

*UST Operator Training* – The Chairman observed nearly all PSTIF-insured UST owners and operators had complied and reminded Ms. Wheeler of the question posed at the prior Board meeting regarding the Department's plans. Ms. Wheeler invited Heather Peters to respond; Ms. Peters reported the Department had confirmed 85% of non-PSTIF-insured owners/operators had complied with the operator training requirement and she expects that number to slowly increase as the remaining sites are checked over the next two years.

*Boards and Commissions Task Force* – Ms. Eighmey briefly summarized the ongoing work of this Task Force, predicting its final report to be presented this fall will contain numerous thoughtful recommendations on how to shrink the number of gubernatorial appointments. She said there are no indications the Task Force intends to recommend any changes to the PSTIF Board composition or responsibilities.

*No MO Red Tape* – The chairman invited questions on this information; there were none.

*Advisory Committee Meeting – October 5, 2017* – Chairman Greer announced the PSTIF Advisory Committee would meet on October 5; he reminded Trustees they are welcome but not required to attend. He said the Committee will review proposed rule changes, which may then be presented at the next Board meeting.

*Board Meeting Dates for 2018* – Chairman Greer asked Trustees to review the proposed meeting dates. Ms. Wheeler asked whether any of the proposed dates fall on the third Wednesday of the month, noting she is obligated to attend a different meeting on that day each month. Chairman Greer then suggested any Trustee who would be unable to attend on any of the proposed dates to email that information to the Executive Director so the schedule can be finalized.

*Billings* – Chairman Greer invited questions about the billings provided; there were none.

He thanked those in attendance for coming and reminded all present the next meeting would be on November 29 at The University Club on MU's Campus in Columbia. He then asked the Trustees to go into closed session to:

- Approve the minutes from two closed meetings;
- Discuss and make a decision on the claim appeal heard this morning

- Discuss matters relating to contracts; and
- Discuss ongoing and threatened litigation.

Tom Kolb moved to go into closed session to discuss the matters identified by the Chairman, as authorized by Section 610.021, Subsections (1) and (12), RSMo. Ski Mariea seconded. A roll call vote was taken; motion carried without dissent.

Chairman Greer adjourned the open session meeting at 11:26 a.m.

Respectfully submitted:

Approved by:

\_\_\_\_\_/S/\_\_\_\_\_  
Carol R. Eighmey

\_\_\_\_\_/S/\_\_\_\_\_  
James Greer, Chairman

\_\_\_\_\_/11/29/17\_\_\_\_\_  
Date