

The Dormitory Authority of the State of New York held a Governance Committee Video Conference Meeting between DASNY's New York City Office, One Penn Plaza, 52nd Floor, New York, New York and Albany Office, 515 Broadway, Albany, New York at 4:30 p.m. on Tuesday, March 3, 2020.

The Meeting was called to order by the Chair of the Committee. The Board Chair designated Gerard Ronski as a temporary Governance Committee Member for purposes of today's meeting. Roll call was taken and a quorum was present. Those Governance Committee Members present and absent were as follows:

Governance Committee Members Present - NYCO

John B. Johnson, Jr., Governance Committee Chair
Alfonso L. Carney, Jr., Chair, Governance Committee Member
Gerard Ronski, Governance Committee Member

Other Board Members Present - Albany

Joan Sullivan, Board Member
Tracy Raleigh, Board Member

Other Board Members Present - NYCO

Beryl Snyder, Board Member

Members via Zoom – Buffalo

Jonathan H. Gardner, Esq., Member (non-voting Member)

Also Present - Dormitory Authority Staff - NYCO:

Reuben R. McDaniel, III, Acting Executive Director
Paul G. Koopman, Vice President
Michael E. Cusack, Esq., General Counsel
Portia Lee, Managing Director, Public Finance and Portfolio Monitoring
Ricardo Salaman, Esq., Managing General Counsel
Dena T. Amodio, Esq., Assistant General Counsel

Also Present - Dormitory Authority Staff - Albany:

Kimberly Nadeau, Chief Financial Officer
Caroline V. Griffin, Chief of Staff
Kathy Ebert, Senior Director, Internal Audit
Karen E. Ehlinger, Manager, Internal Controls Analysis
David F. Perritano, Public Information Officer

PUBLIC SESSION

Chairman Johnson called the meeting to order. The minutes of the November 12, 2019 Governance Committee Meeting were reviewed and approved unanimously.

The Committee Chair stated that the Governance Committee is required to review certain documents annually and provide a recommendation for approval to the full Board. The Committee Chair noted that he has asked Mr. Cusack to break these approvals up in the future over a three month period of time so that the process is more streamlined. He then asked Mr. Cusack to summarize the Governance documents.

Mr. Cusack informed the Committee Members that the Committee is being asked to conduct its annual review of certain corporate governance items, including DASNY's Governance Committee Charter, Governance Principles, By-Laws, and Mission Statement and Performance Measures, including the Metrics to Quantify Performance Goals.

Mr. Cusack further informed the Committee that the Governance Committee Charter and/or Public Authorities Law require annual review of certain DASNY operational policies, procedures and guidelines, including the Code of Ethical Conduct for Board Members, the Whistleblower Protection Policy and Procedure, the Policy Regarding Payment of Compensation and Reimbursements to and Time and Attendance of Senior Management, and the Guidelines Pertaining to Disposition of Certain Property Owned by DASNY.

Mr. Cusack advised that following internal review and comment, Staff is recommending updates and modifications to two items on the agenda this afternoon.

DASNY By-Laws

Mr. Cusack noted that Staff is proposing an amendment to Section 3.7 of the DASNY By-Laws, to allow use of video conference equipment in cases of a request for reasonable accommodation approved by the Chair. He stated that Section 3.7 of the By-Laws currently allows for the use of video conference technology at Board meetings in circumstances where a Member (or Members) cannot attend at the location where a quorum of the Board is gathered due to inclement weather conditions. He noted that, after review and discussion, Staff is recommending a further modification in cases where a reasonable accommodation is occasionally requested and approved by the Chair, deferring to the normal legal meaning of this term (i.e., a reasonable accommodation is typically granted due to illness, disability or religious reasons). Mr. Cusack indicated that as with the inclement weather requirements, a quorum of the Board would still be gathered at the main meeting location, and all normal Open Meetings Law requirements would apply to the location at which participation by means of video conference equipment is allowed.

In response to Committee Chair Johnson, the Board Chair noted that in the requirement of a quorum is still intact, and that there would still need to be a quorum of Members in one of the locations. Mr. Cusack noted that the By-Laws hold a more detailed description in Section 3.7 than is indicated in his memorandum to the Board with regard to this language.

After consideration, the Corporate Governance Committee decided unanimously to recommend the proposed revisions to the DASNY By-Laws to the full Board.

Whistleblower Protection Policy and Procedure

Mr. Cusack stated that to follow up on discussions with the Governance Committee last year, Staff is recommending additional updates to DASNY's Whistleblower Protection Policy and Procedure. He noted that as discussed in his legal memorandum to the Committee and Board, the modifications are proposed to the Policy, Definitions and Procedure sections and include recommended language in the ABO Guidance for Whistleblower Access and Assistance Programs. He indicated that the feature of DASNY's current policy extending certain whistleblower protections to DASNY's Members, officers, employees, consultants and contractors is not changed with the proposed policy revisions.

Mr. Cusack reported that the Procedure section has also been revised to more clearly recognize that a whistleblower complaint can exist not only at the time of the initial complaint (Section I), but also at a later point in time if there is any personnel action or other retaliation taken against the complainant because he or she has filed a whistleblower complaint (Section II).

Mr. Cusack stated that if a whistleblower believes that he or she has suffered a personnel action or other retaliation by an employee of DASNY for exercising his or her rights under this Policy and Procedure, Section II clarifies the complaint process for that incident consistent with ABO guidance. He noted that DASNY would not be able to control personnel action or retaliation against consultants or contractors by actors not employed by DASNY, as DASNY's ability to control what happens inside third-party organizations is limited. Consultants and contractors would, however, be protected against retaliation by DASNY employees. Mr. Cusack reiterated that, again, normal processes and procedures would apply throughout including General Counsel disclosure to DASNY's President and the Chair, and updates on relevant information would be provided to the Board in Executive Session.

In response to a question from Mr. Ronski, Mr. Cusack noted that depending on status of the employee, he or she could be subject to disciplinary action up to and including termination, keeping in mind that there are different rights and processes based on employees who are union versus non-union. He noted that the Policy allows DASNY to take corrective action prior to the whistleblower taking other action against DASNY. He noted that the Policy is preventative and allows management to learn of disputes and resolve them through the normal management process.

Mr. Cusack responded to Mr. Gardner regarding other State or Federal Laws that might supersede DASNY Policy. He stated that the Policy notes that Public Authorities Law §2857, Civil Service Law §75-b, Labor Law §740, State Finance Law §191 and Executive Law §55(1), in addition

to certain Federal laws, provide public employees (including DASNY employees) protection against retaliation for engaging in various forms of whistleblowing. He noted that this Policy is in addition to those laws.

Mr. Cusack responded in the affirmative to Mr. Gardner's statement that it is reasonable to say that in a situation with a whistleblower, DASNY would look to this policy first and then to all other applicable laws to provide the protection to the whistleblower.

The Corporate Governance Committee decided unanimously to recommend the proposed revisions to the Whistleblower Protection Policy and Procedure to the full Board.

Remaining Annual Review Requirements

With respect to other Governance Committee and Board annual review requirements, Mr. Cusack noted that Staff has also reviewed the following Governance Committee agenda items and (subject to comment from the Governance Committee or other Board Members) is recommending no further updates currently:

- Governance Committee Charter;
- Governance Principles;
- Mission Statement, Performance Measures and Metrics to Quantify Performance Goals
- Code of Ethical Conduct for Board Members;
- Policy Regarding Payment of Compensation and Reimbursements to and Time and Attendance of Senior Management; and
- Guidelines for the Disposition of Certain Property Owned by the Dormitory Authority

Committee Chair Johnson noted that nothing has been brought to the Committee's attention over the past year that would require any changes to these items at this time. After discussion, the Committee Members concurred with the recommendation of Staff and agreed that the record would reflect completion of the annual review with respect to these items.

In response to the Board Chair's inquiry, Mr. Cusack noted that had there been any changes to any of the items above, full Board approval would be required. He noted that without any proposed changes to any of the other items, the full Board is only required to annually approve the Mission Statement, Performance Measures and Metrics to Quantify Performance Goals, and the Guidelines Pertaining to Disposition of Certain Property Owned by DASNY.

To fulfill annual compliance review requirements in the Public Authorities Law, the Corporate Governance Committee further decided unanimously to recommend the Mission Statement, Performance Measures and Metrics to Quantify Performance Goals, and the Guidelines Pertaining to Disposition of Certain Property Owned by DASNY to the full Board for approval.

Board Self-Evaluation

The Board Chair moved that the Members go into Executive Session to discuss the financial and credit history of a particular corporation; proposed, pending or current litigation; and the employment history of particular persons or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person. Mr. Ronski seconded the motion and the Members went into Executive Session.

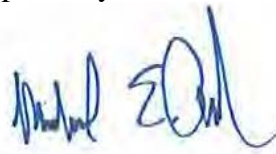
EXECUTIVE SESSION

While in Executive Session, no action was taken other than that to return to Public Session.

PUBLIC SESSION

The Board Chair moved to adjourn the Meeting, Mr. Ronski seconded the motion and the Corporate Governance Committee Meeting adjourned at approximately 5:30 p.m.

Respectfully submitted,



Michael E. Cusack
Assistant Secretary to the Board of the
Dormitory Authority