



**MINUTES OF THE
OFFICE OF THE OHIO CONSUMERS' COUNSEL GOVERNING BOARD**

August 25, 2020

Members Present: Mr. Michael Watkins, Chair
Mr. Stuart Young, Vice-Chair
Mr. Tim Callion
Ms. Cheryl Grossman
Ms. Kelly Moore
Mr. Charles Newman
Ms. Jan Shannon

Members Absent: Ms. Troyer and Mr. Wondolowski.

CALL TO ORDER BY CHAIR:

Chair Watkins called the meeting to order at approximately 10:30 A.M. Deputy/Interim Secretary Sauer called the roll, with members present as shown above. The meeting was held by conference call, as allowed by law during the coronavirus crisis. Consumers' Counsel Weston explained that Deputy Sauer has kindly assumed the responsibilities of Interim Secretary for the Board while Monica Hunyadi, Chief-of-Staff – Non-Case Services, is out for what is expected to be a few months.

GUEST SPEAKER – REP. ROBERT CUPP, SPEAKER OF THE OHIO HOUSE OF REPRESENTATIVES:

Chair Watkins introduced Speaker Cupp. The Speaker began his remarks by thanking the Consumers' Counsel and the Board "for the important work that you do in representing consumers across the state of Ohio. It's very hard for consumers to have a voice in the process." Speaker Cupp said one of the reasons the Office of the Consumers' Counsel was institutionalized was to give rise to that consumer voice during legislative and PUCO "meetings, hearings and activities." He said "it is important work, and we appreciate...what you're doing, what your mission is, and the vigor that you bring to it." He added the information and input of the Consumers' Counsel during the legislative process is very valuable.

Speaker Cupp addressed the recent changes that have taken place in the Ohio house which led to him being elected as the Speaker. He said his first and most important goal is to help restore trust and integrity to the leadership in the House.

Speaker Cupp said members on both sides of the aisle are looking forward to building new working relationships. Policy discussions and negotiations will be conducted in a very honest, straightforward and civil manner.

Consumers' Counsel Weston shared with Board Members that Rep. Cupp, when he was Chair of the House Public Utilities Committee, reached out to him to hear the consumer side of several utility issues. Mr. Weston noted his appreciation for that and thanked Representative Cupp for his willingness to hear the different perspectives on the issues.

Speaker Cupp thanked the Consumers' Counsel for his comment. And the Speaker noted his appreciation for the expertise that Mr. Weston brings to these issues, and his work for consumers. The Speaker said, regarding Consumers' Counsel Weston, that "we've known each other for quite a while and I think have worked well together." He agreed that getting all the perspectives before making policy decisions is important. He finished his comments by again noting his appreciation for the members of OCC's Board for what Mr. Weston and his staff do.

MEETING MINUTES:

Chair Watkins asked for a motion to approve the minutes of the June 17, 2020 Board meeting. A motion was made by Ms. Moore to approve the minutes. Mr. Callion seconded the motion. Mr. Sauer called the roll. The June 17, 2020 Board meeting minutes were approved unanimously.

COST SAVINGS DAYS:

Mr. Weston noted for the Board that the Governor has instituted cost-saving days for state employees, in the agencies under his purview. OCC is among various agencies that are not under the Administration's purview (as that term is used in government) for such HR matters. However, the Administration expressed that it would appreciate it if such agencies would join in the cost-savings days. (For agencies like OCC that do not have budgets funded by taxes, the cost-savings days will not have the intended effect of reducing any tax shortfall.) Mr. Weston noted that, as the appointing authority for OCC, he wanted to be supportive of the Governor on this issue, so he exercised his authority to institute cost-savings days for the OCC staff for at least the first half of the fiscal year. Mr. Weston explained, however, that he does not have the authority to reduce his own salary or to reduce the Deputy's salary. (Cost-savings days are essentially salary reductions, where the employee is required to take leave without payment for it.) Therefore, he asked for the Board to provide him the discretion to reduce his own and the Deputy's salaries.

Mr. Young made the following motion: "I move for the Board to grant the Consumers' Counsel the discretion to establish unpaid cost savings days for his position and for the Deputy Consumers' Counsel, for the fiscal year beginning July 1, 2020. This action does not affect the Consumers' Counsel's existing discretion, as the Agency's appointing authority, to establish unpaid cost savings days for the Agency's other employees."

Mr. Newman seconded the motion. Mr. Sauer called the roll. The motion was approved unanimously.

RECOGNITION:

Mr. Weston announced the recent retirement of two employees. Jeff Hecker, Senior Regulatory Analyst, retired July 31st. David Bergmann, Assistant Consumers' Counsel, retired July 14th.

Mr. Weston also expressed his appreciation to the OCC staff and Board for continuing the important advocacy work for Ohioans, remotely. He said he appreciates the OCC staff for the adjustments they have made to work on behalf of consumers remotely and for the tremendous amount of work being done in the best interests of Ohio consumers.

REPORT BY CONSUMERS' COUNSEL BRUCE WESTON:

Mr. Weston updated the Board on changes to the OCC website to make it more useful and informative for Ohioans. A new feature has been added to the news section where, in addition to listing news stories about utility consumer issues, the most topical stories are shown first.

Mr. Weston said one of those stories is about the energy insecurity that many people are experiencing. OCC is concerned about disconnections of utility consumers who may be in desperate circumstances due to loss of jobs. OCC is advocating for the PUCO to postpone the date when it will allow utilities to resume disconnections. There is also great concern for households having individuals on medical devices and for other at-risk consumers. OCC has taken the position that disconnections should be suspended indefinitely, or at least until the winter reconnect order becomes effective in October. He said the PUCO approved the utilities' recommendations for resumption of disconnections, and did not accept the consumer recommendations from OCC.

Mr. Weston then discussed the House Bill 6 scandal. For a long time, utilities have had undue influence on government. OCC has long been concerned about undue utility influence and is of the view that the utilities' influence should be curbed so as to bring more balance to the process for consumers.

Deputy Sauer provided an overview of the U.S. Criminal Complaint that was filed against former Speaker of the House Larry Householder and four others involved in an alleged criminal enterprise. Generation Now, a 501(C)(4) nonprofit organization, was also named in the Complaint, and it was used as the funding repository for the illegal activities that were alleged in the Complaint.

Mr. Sauer continued and noted that the U.S. Criminal Complaint contains allegations of racketeering activity, wire fraud, extortion, bribery, and money laundering. The Householder Enterprise (referenced in the Complaint) allegedly received \$60 million between March of 2017 and March of 2020 from an unidentified company (labeled as "Company A" that people believe to be FirstEnergy).

Mr. Sauer further said the Criminal Complaint described that \$60 million was allegedly used in part for bribes to obtain the Speaker position for Representative Householder and to increase and expand his power. The money was used to enrich those in his enterprise and to promote, conceal and protect the enterprise from public exposure.

The former Speaker helped pass H.B. 6, the bill that provided subsidies to nuclear plants and to coal plants, one in Indiana and one in Ohio, and to some solar facilities.

Mr. Sauer recounted that the money was also used to block the effort to have a referendum initiative on the ballot. The effort was to have the public vote on a repeal of House Bill 6 but the effort to qualify the issue for the ballot did not succeed.

Mr. Weston then discussed three bills that are pending in the Ohio General Assembly to repeal H.B. 6 (S.B. 346, H.B. 738 and H.B. 746). Mr. Weston explained that possible legislative approaches to fixing House Bill 6 are repeal, repeal and replace, or repeal and reform. OCC would like to see more balance and fairness for utility consumers and a reduction in the undue utility influence on government in Ohio.

Ms. Grossman asked how much consumers paid FirstEnergy in subsidies over the years. Mr. Weston replied around \$10 billion.

Vice-Chair Young noted for the members his perspective, after being on this Board for eight years, is that “I don't want the Consumers’ Counsel and his staff spending a whole lot of time on House Bill 6. I think this is an opportunity for our organization to cement itself for the future.” In this regard, the Vice-Chair stated his opinion that OCC’s bigger battle is with H.B. 246 which he acknowledged may or may not show its head again. Vice-Chair Young further stated that it's obvious to the general public, that right now, the only true advocate for consumers in Columbus is the Consumers’ Counsel. He commented: “I look forward to the next year of pushing the agency to bigger and better things as far as representing consumers.”

Ms. Grossman echoed Mr. Young’s comments, and added: “I think we are extremely fortunate to have Bob Cupp in the position that he's in. ... So I would be really surprised if H.B. 246 goes anywhere, because of Bob Cupp, the ethics and morals that he operates with, but you're right, we're at a good time to demonstrate why we're so important.”

Chair Watkins further added, that he would kind of agree with the Vice-Chair on priorities for the near future. He stated that: “H.B. 246, if it does come back by some chance, either in the House version or if the Senate decides to have their own version, it would be devastating to the organization, as we all understand.” He agreed that at this point OCC needs to concentrate on H.B. 246 to make sure that number one, that the agency is not decimated, and that we can continue to represent consumers at the level we've been doing.

To the comments by some of the Board members on agency priorities, Mr. Weston sought clarification. Mr. Weston stated: “So, as I understand the Chair and Vice Chair and members, that I think you’re speaking for me exercising my discretion and judgment about what to say on the subject of House Bill 6. I think you're speaking in terms of prioritization; you think the greatest threat to consumers is House Bill 246. But I think you're also particularly speaking to prioritizing opposition as House Bill 246, for the protection of consumers. But I think you're also saying that, to whatever extent things should be said regarding House Bill 6, the agency should say them, is that fair?”

The Board Chair provided Mr. Weston the following clarification: “I would agree that that's fair. Yes. We can say one thing today or view things in a certain light today. That doesn't mean that tomorrow things won't change. So you have to have that discretion in order to maintain our representation.”

RESOLUTION ON REFORM OF THE PROCESS FOR SELECTING PUCO COMMISSIONERS

Mr. Weston introduced the subject of a draft resolution (for the Board to consider adopting) by saying that Chair Watkins had commented that concerns about the PUCO commissioner selection process had been discussed by the Board for years and it was time to wrap up a Board position. Mr. Weston provided information on how the current selection process came to be. Prior to 1983 the Governor appointed three commissioners without any sort of nomination process. In 1982, in reaction to (and to avoid) a ballot initiative to elect commissioners, a law was passed creating the PUCO Nominating Council. The OCC Governing Board had expressed concern in a November 1982 Resolution that all the applicants for commissioner positions should be interviewed by the Nominating Council with an eye towards their “sensitivity to consumer interests.”

Former Board Chair Gene Krebs had expressed concerns over the years that the Nominating Council process was not bringing forward applications from the people who could or should be considered in the process. Chair Watkins noted there have been times that a number of well-qualified people, very knowledgeable in different aspects of utility, operation and regulation, were overlooked to the detriment of the consumers in Ohio. These people had backgrounds as university professors and researchers, without biases. He added the concern that three of five current PUCO Commissioners have worked for, or been affiliated with, utilities in one way or another. Vice-Chair Young noted his prior commentary that the PUCO Nominating Council “was the lamest experience of my life....”

Mr. Weston said the primary reform recommendation in the resolution is to use the process of direct public election of PUCO commissioners to replace the current approach of appointment of PUCO commissioners after a nomination process. The resolution also has a secondary alternative. If there is not interest by the General Assembly for passing a law for the public election of commissioners, then the Nominating Council process must be greatly and substantially reformed.

The Board then discussed and voted on the resolution to reform the process for selecting people to serve the public as PUCO commissioners, including restrictions on campaign contributions for

commissioner candidates. Vice-Chair Young made a motion to accept the resolution as presented. Ms. Shannon seconded the motion. Mr. Sauer called the roll. The Board unanimously approved the resolution.

OCC FISCAL REPORT:

Mr. Weston discussed the fiscal report, including Fiscal Year 2020 that ended on June 30, 2020. He said that as a cost conservation measure during the pandemic, the Administration had asked directors of state agencies to make budget cuts to funds that were remaining for the budget year ending on June 30, 2020. OCC submitted a proposal for saving \$125,000, which was accepted by the Administration. Mr. Weston noted that, of the agency's \$5.5 million budget, approximately \$333,000 has been unspent (which includes the \$125,000 mentioned above). He said the state is working on closing the books for that fiscal year.

Mr. Weston reported that OCC is working on the budget proposal for the biennium to begin July 1, 2021. He offered information on the history of the OCC budget and the status of the current budget. He said OCC is in a category of agencies that can request 100% of its previous budget and stated OCC would do so.

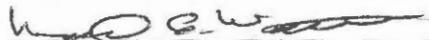
Chair Watkins said he would favor requesting a modest increase in the agency's budget proposal. He said it is important for OCC to hire and retain quality staff. Mr. Weston said he appreciated the Chair's comment.

Mr. Weston said he anticipates the agency's budget testimony will take place in the spring.

Ms. Moore made a motion to adjourn the meeting. It was seconded by Ms. Shannon. Mr. Sauer called the roll. The motion was unanimously approved.

The meeting adjourned at 12:25 P.M.

I verify that the above meeting minutes have been approved and ratified by the Consumers' Counsel Governing Board on September 15, 2020.



Michael Watkins, Chair



Larry Sauer, Interim Secretary
Ohio Consumers' Counsel Governing Board