September 17, 2019

Location: DoubleTree Suites Downtown Austin – 303 W 15th St, Austin, TX 78701

**Agenda Item 1 – Call to Order, Establishment of a Quorum**

Lorrie Cheshier, Chair of the Board, called the third quarter meeting of the Board of Directors of the Surplus Lines Stamping Office of Texas to order on September 17, 2019, at 10:10 a.m.

**Board Members in attendance:**

<table>
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<tr>
<th>Name</th>
<th>Term Expirations</th>
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<tr>
<td>Charles Gillenwater,</td>
<td>12/31/2019</td>
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<td>Vice Chair</td>
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<td>Rosemarie Marshall,</td>
<td>12/31/2020</td>
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<td>Secretary</td>
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<td>Lorrie Cheshire</td>
<td>12/31/2019</td>
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<td>Kyle Streetman</td>
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<td>Penni Nelson</td>
<td>12/31/2020</td>
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<td>Peter Harrison</td>
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<td>Teri Brinson</td>
<td>12/31/2021</td>
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<td>Leslie Milvo</td>
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<td>Randall Myers</td>
<td>12/31/2021</td>
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A quorum of five or more members was confirmed by Cheshier.

**Staff members in attendance:**

Kyle Bolls – VP of Finance/Interim Executive Director
Denisse Orellana – VP of Human Resources
Tara Mitchell – VP of ITS
Ashley Corpus – Administrative Project Specialist

**Counsel in attendance:**

Alex Gonzales – Duane Morris LLP

**Other guests and observers in attendance:**

Paul Rainey – TSLA Liaison
Shirley Bowler – Texas Surplus Line Reporter & Insurance News
Meredith Gregston – Duane Morris LLP
Moya McKenna – Texas Department of Insurance
Lisa Rodriguez – Beatty Navarre Strama PC
Stan Strickland – Mitchell, Williams, Selig, Gates & Woodyard, PLLC
Norma Essary
Before addressing the agenda items, Cheshier made several announcements concerning the conduct of the meeting:

1. The Board does not have time for public comments due to the length of the agenda. Representatives of state agencies and members of the public are welcome to observe or record this Board Meeting but should refrain from asking questions of Board Members during the Board Meeting or interjecting comments during the Board’s discussions.

   The state agency personnel may be asked questions about their agency’s policies, if those questions relate to an agenda item.

2. The Board will have a one-hour break starting approximately at noon for lunch. No Board business will be conducted or discussed during this break.

3. The Board will have a closed executive session during the latter part of the agenda. Only the Board and legal counsel will be in the room during the executive session. The Board will reconvene in open session after the executive session to vote on Agenda Item 9, if appropriate.

**Agenda Item 2 – Approval of Prior Board Meeting Minutes**

Minutes of the May 10, 2019, Special Meeting, the June 18, 2019, Second Quarter Meeting and the September 3, 2019, Special Meeting were previously circulated or distributed to Board Members.

Lorrie Cheshire recommended that the minutes of the May 10, 2019, Special Meeting be approved.

Penni Nelson made motion.
Kyle Streetman seconded the motion.
The motion passed unanimously.

Lorrie Cheshier recommended that the minutes of the June 18, 2019, Second Quarter Meeting be approved.

Penni Nelson made a motion.
Charles Gillenwater seconded the motion.
The motion passed unanimously.

Lorrie Cheshier recommended that the minutes of the September 3, 2019, Special Meeting be approved.

Teri Brinson made a motion.
Penni Nelson seconded the motion.
Lorrie Cheshire called for any changes or clarifications to the minutes.

Teri Brinson pointed out that the sentence “Brinson moved that the investigation should include SLTX operations related to and inclusive of all complaints not received to date” should be corrected to remove the word “not.”
Lorrie Cheshier asked for any further discussion of the minutes. Hearing none, the motion passed unanimously.

Cheshier noted that the minutes will be posted on the SLTX website after revision and signature by the Board secretary.

**Agenda Item 3 – Report on Current Financial Statements by Kyle Streetman, Chair of Finance and Audit Committee, and Kyle Bolls, Interim Executive Director**

It was stated that the financial report would be presented by Bolls. Bolls referred the Board to the copy of the August 2019 financial report provided in the Board packet.

With respect to the budget variance report, Bolls stated stamping fees are well in excess of budget. He also said that interest income is higher than budget. The stamping fee increase is due to an ongoing trend throughout the year of an increase in premium processed, and year to date stamping fee revenue had a positive variance of more than $2 million. Interest income is also higher than budgeted, due to higher interest rates overall and a larger pool of investments.

Salary and benefit expenses continue to be lower due to open positions not yet filled, as well as lower insurance costs. Year to date, there is a positive variance of approximately 25%.

Professional services are slightly higher in August. Overall, they are 6% over budget year to date.

The education/travel variance to budget has to do with the timing of education contributions budgeted but not yet made. In addition, some travel that had been budgeted was not taken.

A positive variance on the occupancy/occupational category is due to lower costs associated with various maintenance contracts. In addition, some software was purchased at a lower rate due to 501(c)(3) pricing that SLTX can take advantage of.

The general/admin expenses variance is directly related to a change in the amortization schedule for the SMART System. As SMART is coming on line in smaller chunks rather than one large push, there is not as much amortization expense being recorded in 2019.

Contingency expense is a requirement of the Plan of Operation, which requires an additional 5% of the anticipated expense to be budgeted. There has been no use or anticipated use of this expense in 2019.

Excess of revenue over expenses shows a positive variance of $432,000 for the month of August and $3.7 million year to date.

The maximum fund balance per statue is $1.458 million.

Bolls indicated this was the end of his report. Cheshier asked if there were any questions. Hearing none, she thanked Bolls for his report.
Agenda Item 4 – Finance and Audit Committee Report by Kyle Streetman, Chair of Finance and Audit Committee

Streetman commented that the Finance and Audit Committee had a long and in-depth meeting the day before.

The committee discussed the Unrestricted, Undesignated Fund balance. The committee specifically discussed the purpose of the fund, how the fund is used, what the target balance of the fund is and the current maximum limit for the fund as determined by the Plan of Operation. The committee was provided a description and explanation of the fund by SLTX staff.

Kyle Streetman recommended that the Board direct SLTX staff to provide an in-depth analysis of the fund balance with a report to be presented at the December Board Meeting.

Leslie Milvo made a motion.
Peter Harrison seconded the motion.
The motion passed unanimously.

Streetman moved on to item 2 of the Finance and Audit Committee report – the Real Estate Fund. SLTX staff provided a history of the fund, including the creation and previous funding approved by the Board. The committee inquired about the process for purchasing real estate and use of the real estate fund.

SLTX staff updated the committee on progress made in the past year. These items include:
- Engaging a real estate firm to assist in finding office space to purchase
- Meeting with a real estate firm and setting property search parameters
- Visiting potential properties
- Engaging service providers needed for property acquisition, including a construction advisor, architect and engineers

Streetman presented a committee motion to have SLTX complete an in-depth analysis of the Real Estate Fund, to include:
- All Board actions taken to date
- All work completed by staff to date
- A timeline for future work to be completed
- Future needs, including:
  - Staffing needs
  - Vendor contract procurement, including approved dollar limit
  - Other items needed

The analysis will be completed and presented to the Board at the December Board Meeting.

Rosemarie Marshall made a motion.
Peter Nelson seconded the motion.
The motion passed unanimously.

The Finance and Audit Committee next discussed the Asset Replacement Fund. The discussion included the purpose of the fund, how the fund works, and Board actions taken with regards to the fund.
Streetman asked if there were any questions or discussion. Hearing none and with no further Board action required at this time, he moved on to the next topic.

The next topic discussed by the Finance and Audit Committee was the stamping fee rate. The committee discussed the recent history of the stamping fee rate, how the rate is set and changed, as well as what the rate should be in the future.

Kyle Streetman recommended that the Board request the SLTX staff to complete an analysis of the stamping fee rate to determine if a change is needed. The analysis will include expected future cash outflows, expected operating expenses and potential unforeseen costs as compared to anticipated future surplus lines premium value reported to SLTX. The purpose of the analysis is to determine the appropriate rate with a full report presented at the December Board Meeting.

Teri Brinson made a motion.
Peter Harrison seconded the motion.
The motion passed unanimously.

The committee next discussed two internal audits to be completed as soon as possible.

The first audit is an internal control audit. The committee recommend the following to the full Board:

The Finance and Audit Committee recommends the SLTX Board of Directors seek a third-party vendor to draft a Request for Qualifications for an internal control audit.

Authority for selecting the vendor to draft the RFQ and the firm to complete the internal control audit will be granted to the Finance and Audit Committee.

The Finance and Audit Committee will select a vendor to draft the RFQ by Wednesday, September 25, 2019.

The RFQ is to be issued by October 2, 2019.

The internal control audit is to be completed for presentation at the December Board Meeting.

Teri Brinson made a motion.
Peter Harrison seconded.
The motion passed unanimously.

The second audit discussed by the Finance and Audit Committee is an IT security audit. The committee recommended that the Board engage RSM, the current SLTX IT security audit firm, with the scope of the audit delegated to the Finance and Audit Committee. The audit is to be completed for presentation at the December Board Meeting.

Peter Harrison made a motion.
Penni Nelson seconded the motion.
The motion passed unanimously.
The committee next discussed the proposed annual budget. The committee reviewed the proposed budget and determined there were several revisions needed. As a result, the committee recommends tabling the topic of the 2020 proposed budget until revisions are made at the request of the committee. The committee recommends calling a special meeting in October to review and approve the STLX budget for 2020.

Cheshier asked that Bolls review some of the items proposed for revision. A full review will be conducted surrounding revenue, salary and related expenses, including benefits. Legal fees are expected to drop, but there is a potential increase for professional fees and services. Education and conference expenses are to be reviewed with amendments expected. No major changes are expected in occupancy/operating expenses, but some increase is expected in software licensing and equipment maintenance expense.

Penni Nelson recommended a special Board Meeting in October to review and vote on the 2020 budget. Peter Harrison seconded the motion. The motion passed unanimously.

Additionally, the Finance and Audit Committee reviewed the sections of the Plan of Operation that relate to accounting and finance. The committee recommends provisions of the Plan of Operation be reviewed by the full Board. After the Board has reviewed and analyzed the Plan of Operation, any suggested revisions should be presented to the Board for discussion and appropriate action. No further discussion was held on this topic.

The final topic discussed by the Finance and Audit Committee concerned the current scope and duties of the committee. These include:

- Annual audit: review annual audit and present findings to the Board
- Annual budget: review annual budget prepared by staff and make recommendations to the full Board
- Investment review: annual investment policy statement review
- Other matters: review and discuss other matters as they arise

Streetman asked if there was any discussion or suggestions for other duties to be added. Gonzales suggested that the Finance and Audit Committee have some kind of watchdog function and authority to take action if they see items that should be discussed. There was general agreement that this is a reasonable suggestion, but no further details were determined.

Agenda Item 5 – General Counsel Report by Alex Gonzales, General Counsel

Gonzales presented a proposed Antitrust Statement, which had been previously circulated to the Board. He stated that he felt during meetings held by the special working group on policy limits, there were topics brought up that at times came close to potential antitrust actions. While counsel is present at Board Meetings and can stop discussions that may stray, there is a concern at other industry type functions that Board Members should be more aware of potential antitrust actions. Marshall asked how an antitrust statement would apply to this agency. Gonzales explained that SLTX is a non-profit association with some immunities built into statute but otherwise subject to personal liability, so his recommendation is approving an antitrust policy. Marshall pointed out several editorial corrections in the proposed document.
Penni Nelson recommended that the Board accept the general counsel proposed antitrust statement with the editorial changes requested by Marshall.
Charles Gillenwater seconded the motion.
The motion passed unanimously.

Gonzales made a recommendation for a formal designation of the Executive Committee with authorization to take action on urgent matters as needed without calling a full Board Meeting. Brinson asked what level of authority is being recommended. Gonzales restated a formal designation of an Executive Committee comprised the Board Chair, Vice Chair and Secretary, with delegated authority to take action of urgent matters where a Special Board Meeting is impractical. All Board Members would be notified, and any Executive Committee meeting would be posted in accordance with Open Meetings Act requirements. A full report of any action taken would go to the full Board and a vote would be taken at the next scheduled Board Meeting. Myers asked, what if action needed to be taken before the full Board could ratify the action? Gonzales stated that would need further review. Brinson asked if there is a decided action, would the Board be notified before the action is actually taken. Gonzales stated that another alternative is for the Board Chair to have this authority, but he does not feel this is a workable solution for this Board. Harrison asked if any Board Member would be able to attend a meeting of the Executive Committee. Alex stated yes, but like any committee meeting, only committee members would be allowed to vote.

Penni Nelson recommended to table this discussion until a future date.
Kyle Streetman seconded the motion.
The motion passed unanimously.

Gonzales referred the Board to the draft of a revised Conflict of Interest Policy provided in the Board information packet. He advised that this document needed to be revised and asked for Board volunteers to work with counsel on a future draft. Marshall, Nelson and Myers volunteered to assist.

It was recommended that the Board direct the general counsel to draft an updated Conflict of Interest Policy with assistance of Board Members Rosemarie Marshall, Randall Myers and Penni Nelson, with such policy to be presented to the Board of Directors at the December meeting.

Nelson made a motion.
Charles Gillenwater seconded the motion.
The motion passed unanimously.

Gonzales suggested that the Board authorize the Board Chair to engage an outside third-party corporate governance specialist to conduct a full review and report to the Board on legal requirements and recommended best practices, and further delegate oversight of the report to the Finance and Audit Committee.

Brinson asked if it was Gonzales’ recommendation that the Board act as soon as possible, rather than deferring action. Gonzales stated this was an area where the Board had to show immediate action being taken, as TDI had requested it. Streetman suggested that due to the urgency of the matter, the engagement of the third-party be delegated to the Chair. Gillenwater urged caution, that the Board should want to be right rather than expedient and questioned if the Chair had the proper qualifications.
to engage such an expert. Gillenwater further stated this was an area where the Board would want quality and not just the cheapest option.

It was recommended to amend the SLTX Board of Directors seek a third-party vendor to draft a Request for Qualifications for a best practices and governance review.

Authority for selecting the vendor to draft the RFQ and the firm to complete the governance review be granted to the Chair with assistance from the Finance and Audit Committee. The selection of a vendor to draft the RFQ be completed by Wednesday, September 25, 2019.

The RFQ is to be issued by October 2, 2019.

The best practices and governance review is to be completed for presentation at the December Board Meeting, with updates presented as needed prior to the December meeting.

Charles Gillenwater made a motion.
Peter Harrison seconded the motion.
The motion passed unanimously.

Gonzales then opened a discussion about the Plan of Operation. This was originally adopted as a rule by the Commissioner in 1987. The last set of surplus lines rule changes in 2018 took the Plan of Operation out of the rule-making process, but the Commissioner still approves changes to the Plan of Operations. Gonzales suggested a large section of the Plan of Operation would more properly be addressed in by-laws of the organization. The Plan of Operation has effect on outside parties and will require their input.

Alex Gonzales recommended that the Board designate the formation of a special working group to recommend revisions and amendments to the Plan of Operation by the December Board Meeting, with 9 members appointed by the Board Chair, subject to veto by the Board, with three members of the current Board, two members to represent industry members, two members to represent insureds, one member to represent the Texas Department of Insurance and one member to represent the Comptroller of Public Accounts.

Brinson asked for clarification that the current Plan of Operation will be broken into two documents, one being a new Plan of Operation and one being by-laws. Gonzales state that by-laws would only require Board approval, not approval from the Commissioner’s office. McKenna did interject that as the by-laws are in the current Plan of Operation, a new document would require Commissioner approval. Marshall suggested that the Executive Committee duties per earlier Board discussion should be addressed by the by-laws.

Gonzales stated the process would be for the Board to approve the Plan of Operation prior to the Annual Meeting in 2020, then would send the Plan of Operation to the Commissioner to approve or disapprove. The Commissioner would have the option to return it to the Board for changes, or he could rewrite it at TDI.

Teri Brinson made a motion.
Peter Harrison seconded the motion.
The motion passed unanimously.
Alex Gonzales recommended that the authorization for a working group on the Plan of Operation expire immediately after the 2020 Annual Meeting.

Penni Nelson made a motion.
Charles Gillenwater seconded the motion.
The motion passed unanimously.

Alex Gonzales recommended the Board to authorize the drafting of association by-laws for consideration by the Board at the December meeting, with the by-laws draft to be coordinated with any revisions to the Plan of Operation.

Rosemarie Marshall made a motion.
Kyle Streetman seconded the motion.
The motion passed unanimously.

Gonzales opened a discussion of the Public Information Act. He stated that SLTX is subject to compliance with the Act per the Plan of Operation. He suggested that SLTX develop a detailed procedural manual to include lists of clearly open record requests and clearly excepted records, along with guidelines on compliance with Texas Open Meetings Act issues. He provided examples that the annual audit and Board of Director Meeting minutes are clearly subject to open records, while details on individual policy information is clearly excepted information. An example of a gray area could be a request for a list of the top 25 surplus lines agents by premium volume. For SLTX, this is probably public information but not necessarily for the 25 agents. In this type of example, counsel and/or Attorney General opinion may be required.

Gonzales recommended that the Board direct the development and drafting by the general counsel, or delegates, of 1) detailed procedural manuals for addressing Texas Public Information Act requests (aka “Open Records”) to include lists of clearly open records and clearly excepted records; and 2) compliance with Texas Open Meetings Act issues, with the manuals to be presented to the Board for approval at the December 2019 meeting.

Rosemarie Marshall made a motion.
Leslie Milvo seconded the motion.
The motion passed unanimously.

The meeting was recessed at 11:55 a.m. for lunch.

The meeting was reconvened by Lorrie Cheshier at 12:59 p.m.

**Agenda Item 6 – Technology by Tara Mitchell, VP of ITS**

Mitchell reported on the SMART Connector, which is a new mapping tool that will facilitate automated filing among current automated users. A beta group is set to begin testing later in the fall. This is proprietary code developed by SLTX and the Board would need to determine if it wants to license it. The liability associated with open source code is that any other state could use it. If protected, SLTX would be the owner of the code. Streetman asked if other stamping offices have expressed interest in using
SLTX code. Mitchell replied yes. Mitchell stated that the next steps involve choosing a software attorney to review different licensing options and make recommendations to SLTX.

Gonzales stated that the next steps to engage a software attorney were not on the public meeting notice and therefore could not be taken up for a vote by the Board. Mitchell stated beta testing would be delayed if a software attorney is not engaged. Gonzales repeated his position regarding the Board vote. Bolls clarified that Mitchell was merely explaining the necessary next steps, not requesting Board action at this time.

Mitchell further stated that SLTX will want to explore options for licensing the SMART system.

**Agenda Item 7 – Internal Operations by Lorrie Cheshier, Chair**

Cheshier stated that the current SLTX Human Resources Manual was distributed to the Board Members prior to the meeting. She stated that the manual should be reviewed and updated. Gonzales stated that in the past, the manual was reviewed on a bi-annual basis and EEOC training was provided to staff. He further stated that in the past, a checklist of operational items was reviewed by the Board on a regular basis, but that has not been done for two to three years. No Board Member recalled reviewing such a checklist. Cheshier stated she believed she had a copy and would forward it.

Cheshier recommended that the SLTX Human Resources Director and legal counsel, if necessary, review and revise the Human Resources Manual with a report for approval by the full Board to be provided at the December Board Meeting.

Teri Brinson made a motion.
Leslie Milvo seconded the motion.
The motion passed unanimously.

Next, Bolls presented a staffing and position review. He discussed the current SLTX organizational chart and explained that, currently, there are four open positions:
- Data Analyst – a reporting function to assist with various data calls and reports
- Database Administrator – this is a new position for 2019
- Policy Analyst
- Receptionist

Gregston asked about a prior Business Analyst position, which was not indicated on the organizational chart. Bolls state that the duties were redistributed among current staff and the position was eliminated.

Cheshier asked if the intention was to fill the open positions. Bolls stated such intention. The Data Analyst and Database Administrator are new positions, and staff is currently working on job descriptions and postings with intent to fill both by year-end.

Cheshier asked if Bolls had any recommendations regarding additional staffing needs or organization. He stated due to premium growth, at least one more policy analyst, for a total of eight, would be needed. He also discussed an audit position under the VP of Finance who would review Policy Analyst work. With respect to Human Resources, he suggested separating communications and education into two
positions, as well as administrative and projects specialist into two positions. Bolls also suggested a Business Analyst position to liaise between Operations and Technology to better interface with stakeholders. Finally, suggested that Operations be elevated to a strategic position and taken out of Technology.

Cheshier stated there was no need for Board action or motion at this time.

Bolls will distribute the organizational chart to the Board. Marshall asked that both the current chart, along with one showing the proposed changes be sent.

Cheshier thanks Bolls for his report and insights.

**Agenda Item 8 – Termination of Special Working Group on Policy Limits by Charles Gillenwater**

Gillenwater stated concern about keeping the working group open if there is no work for the group to do. Working groups by nature are limited in scope and should have a specific ending point.

Penni Nelson recommended to disband the Special Working Group on Policy Limits.
Teri Brinson seconded the motion.
The motion passed unanimously.

**Agenda Item 9 – Discussion/Consideration of the Executive Director’s Employment, Evaluation, Reassignment, Duties, Discipline or Dismissal; Complaints or Charges Against the Executive Director**

Cheshier announced that the Board would enter into executive (closed) session pursuant to the Texas Open Meetings Act:
1. To receive legal advice from its counsel under section 551.071 of the Act; and
2. To consider personnel matters under section 551.074 of the Act.

All members of the SLTX staff, public, TDI staff, press and other observers or guests were requested to leave the room.

The Board entered executive session at 1:27 p.m.

The Board left executive session at 3:35 p.m. and took a short recess.

The Board reconvened into open session at 3:43 p.m. Members of the SLTX staff, public, TDI staff, press and other observers or guests were invited to re-enter the room.

Cheshier asked if there was any discussion of Agenda Item 9. There was no further discussion.

Penni Nelson recommended that the Board of Directors extend the paid leave of absence of the Executive Director for 30 days, at the end of which time period employment be separated.

Teri Brinson seconded the motion.
The motion passed unanimously.
Rosemarie Marshall recommended an extension be provided on the position of Interim Executive Director to Kyle Bolls for a term of 30 days.

Penni Nelson seconded the motion.
The motion passed unanimously.

Lorrie Cheshier suggested that the Board needed to schedule a Special Meeting in October. Based on early calendar review, October 7, 2019, was chosen.

Penni Nelson recommended to schedule a Special Meeting of the Board of Directors on October 7, 2019, with specific location and time to be determined.

Peter Harrison seconded the motion.
The motion passed unanimously.

Gonzales stated that the Commissioner of the Texas Department of Insurance has asked that the Board meet on a monthly basis through the end of the year. A November meeting date will be determined at the October Special Meeting.

Lorrie Cheshier entertained a motion to adjourn.

Teri Brinson made a motion.
Myers seconded the motion
The motion passed unanimously.

The meeting was adjourned at 3:49 p.m.

Rosemarie Marshall, Secretary