



Larry Hogan GOVERNOR

Boyd K. Rutherford LT. GOVERNOR

Charles Glass, Ph.D., P.E. DIRECTOR

BOARD OF DIRECTORS MEETING MINUTES

MEETING 04-21

April 29, 2021

LOCATION: Conference/Video Call

TIME: 9:30 a.m.

DIRECTORS PRESENT: Charles Glass, Chairman (video)
Judge Frederic Smalkin, Secretary (video)
Morgan Hall (video)
Shelley Heller (video)
J.P. Smith (video)
Joseph Snee, Esq. (video)

DIRECTORS ABSENT: None

OTHERS PRESENT: Sean L. Coleman, Esq. (video)
Hament Patel (video)
Hattie Crosby (video)
Jewel White (video)
Jason Gillespie (video)
Marni Dolinar (video)
Tim Ford (video)
Steven King (video)
Winsome Condra (video)
Jeff Tosi (video)
Sharon Merkle (video)
Casey Powers (video)
Eric Hartlaub, Esq. (video)
Pamela Fuller (video)
Jana Leech (video)
Amanda Cooper (video)

CALL TO ORDER

Dr. Glass called the meeting to order at 9:31 a.m. Board members and staff participated via Teams video. The meeting was streamed live to the public on YouTube.

A technical difficulty with the YouTube audio was detected. No business was conducted until sound was restored for the public.

MINUTES

Dr. Glass requested discussion or a motion for the approval of the minutes of the meeting of March 25, 2021. Mr. Smith made a motion to approve the minutes, and Mr. Hall seconded. The minutes were unanimously approved.

DIRECTOR'S REPORT

Dr. Glass reported on his expenses over the last month. He has not incurred any expenses, nor directed that any expenses be incurred on his behalf in the past month, and he continues to refrain from travelling or incurring business expenses. He did direct staff to pay for a one-day course for his required Professional Engineering credits entitled "Water Environmental Association Effective Utility Management" virtual conference on April 28th. Dr. Glass stated he plans to begin visiting MES operating sites in May. He plans to bring snacks and drinks as he meets with MES team members.

Dr. Glass asked the Board to join him in thanking two long serving Managing Directors who have recently retired. After 34 years of dedicated service, Ms. Tammy Banta has retired from her position as Managing Director of Environmental Dredging and Restoration. Ms. Banta started her career with MES as an Environmental Specialist at Hart-Miller Island in March of 1987. She provided firsthand environmental and project management support to many projects and studies over the years including G-West, Site 92, Pearce Creek and Poplar Island. As Ms. Banta excelled at MES, her responsibilities and positions increased until she reached her most recent position of Managing Director of the Environmental Dredging and Restoration Group, guiding her team on challenging construction and environmental projects such as the expansions of Cox Creek and Masonville Dredged Material Containment Facilities and the Conowingo Pilot Dredging and Sediment Characterization Project. Ms. Banta fostered the development of a very talented and successful EDR Team through her strong leadership, work ethic and commitment to the projects, clients and MES employees.

Mr. Steven Tomczewski Managing Director of Environmental Operation announced his retirement on Friday, March 26 after 16 years of service. Mr. Tomczewski held the position of Managing Director throughout his entire term of service with MES, and in that time, oversaw considerable growth of the Environmental Operations Division of MES. Specifically, during Mr. Tomczewski's term, MES began the highly successful operation of the Prince Georges County Single Stream Facility, the

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operation of the Prince Georges County food waste composting operation, and the management of all the Harford County Department of Public Works Solid Waste Operations. On the engineering side, the Group completed the financing and construction of the Midshore II landfill, the closure of the Midshore I landfill, the construction of two transfer stations, five landfill closure caps, five new landfill cells, one single-stream recycling facility, and the renovation of two other recycling facilities. In addition, the group oversaw the construction and operation of the largest food waste composting operation in the United States. Mr. Tomczewski's operations have won several prestigious Solid Waste Association of North America excellence awards include gold medals for landfill operations and compost marketing.

On April 19th, Dr. Glass appeared in front of the STAR Commission (State Transparency and Accountability Reform), with support from Mr. Coleman and Mr. Tosi. After reviewing the Legislative intent and role of MES in the State, the focus of the presentation was the actions that have been taken to date which include; establishment of Internal Audit Office, execution of a Financial Compliance Audit of FY2020 with the external auditor, established an internal workgroup to review all agency policies, determine needs, and management protocols, and completed a review of MES compensation versus traditional State agencies. The commission would like Dr. Glass to return in late summer or early fall to update them on the progress of implementing the new law and enforcing the updated policies of the agency.

The MES Reform Act (SB2/HB2) passed on April 9th and was signed by the Governor on April 14th. The bill becomes effective on July 1st. The new statute makes structural changes to MES governance, requires specified actions by MES and the MES Board over the next eight months, and implements multiple transparency measures, among other things.

- Board Composition
 - Board must be reconstituted by July 1, 2021
 - Adds State Treasurer to the Board
 - Removes Deputy Director from Board
 - Board Member Term limits – 2 terms
 - Chair: selected from amongst Board members
 - Secretary & Treasurer: selected from amongst Board members and cannot be MES employees.
 - Board members must observe the same standard of care as outlined in Corporations and Associations Article § 2-405.1
- Policies to be Adopted/Readopted by Board

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- Conflict of Interest Policy (October 31, 2021)
- Other Policies (December 1, 2021)
 - Severance Packages
 - Bonuses, including a limit on bonuses for executives calculated as a percentage of salary
 - Tuition Reimbursement
 - Expense Reimbursement (incl. amount, timeframe, relevance)
 - Whistleblower Complaints
 - Travel
 - Use of fleet vehicles, laptops, cell phones, or other vehicles/devices owned by MES
- Required Training - Board members, Executive Director, Deputy Director shall receive annual training on: Ethics, Harassment, Diversity, Policies adopted/re-adopted by Board, and conflict-of-interest policy
- Executive Director
 - Expenses: required to present all expenses in aggregate exceeding \$500 at each regular Board meeting
 - Evaluated by Board annually
 - Board establishes criteria and procedures
 - Criteria and procedures must be published on MES website
- Audits: Independent Assessment (December 31, 2021). Board shall obtain an assessment of the Board's operations by an independent consultant/accountant
 - Structure of Board
 - Dynamics and functioning of the Board
 - Board's role in short-term and long-term strategy
 - Financial reporting process, internal audit, internal controls
 - Board's role in monitoring MES policies, strategies, systems
 - Board's role in supporting and advising MES
 - Role of the Chair of the Board
 - Any other issues relevant to the Board's operations
- Audits
 - Shall obtain audit that focuses on: unauthorized spending, misallocated expenses, lack of conformity with State law or Board policies, other accounting errors
 - Board shall review audit at Board meeting
 - Board shall provide audit (and any recommendations) to DBM
 - Board shall post audit on MES website
- Contracts

- Board shall approve all non-emergency expenses or procurement contracts above \$200,000
- MES Executive Director shall notify Board of all non-emergency procurement contracts above \$25,000.
- BPW approval required for any contract over \$250,000 where MES provide services to a non-governmental entity. Not required for services requested by state or local governments, or services for the federal government
- Hiring/Recruitment/Personnel
 - MES required to advertise, conduct search, conduct competitive interview process for all positions “not assigned to a project”
 - Diversity Officer: Executive Director shall appoint D.O. to
 - Coordinate the development and implementation of a diversity policy for MES
 - Assist employees with the resolution of grievances related to alleged violations of MES’s diversity policy and State/federal antidiscrimination laws
- Transparency – MES Board
 - Board shall make publicly available on MES website:
 - Meeting agenda 48 hours in advance or as soon as possible
 - Meeting minutes from each open session two days after they are approved by Board
 - Meetings held in open session must be live video streamed
 - Board shall maintain on MES website:
 - Complete and unedited archived video recording of each open meeting for which live streaming is available for a minimum of 1 year after the meeting date.
 - Meeting minutes for a minimum of 5 years after date of meeting
- Severance Package: Board may not award if executive accepts another position in State government within 1 year. If awarded, and recipient accepts another position in State government, must repay.

AGENCY ACTIVITY REPORT

Dr. Glass presented the Agency Activity Report and asked if there were any questions. The contract with Prince George’s County for the Brown Station Landfill construction project was signed this week. Mr. Ford explained that construction will begin to fill in a valley between cells on the existing landfill. This will add over 50 years of capacity to the site, which would otherwise run out of space by 2026. The contract

includes other projects at the landfill as well. MES has worked with the County to secure their capital project funding for a multitude of projects.

FINANCIAL REPORT

Mr. Patel presented the March 2021 Financial report. Labor sales are following the same trend as the last 6 months. Labor sales continue to remain lower than at the same period last year, due to there being 1 less pay period this year. The numbers continue to trend in a positive direction to meet or exceed the budgeted net financial position. The agency has achieved 96.2% of its budgeted labor sales as of March 2021. Activity across multiple projects is picking up.

The agency will meet its budgeted increase in net assets for FY2021. The actual increase in net assets should wind up being about what was budgeted. Fringe variance is high now but is expected to even out. As Administrative positions are filled, the overhead variance will decrease. The total net assets are usually evenly divided, with about half being capital assets and half unrestricted net assets. The increase in net assets during the Fiscal Year will impact these balances, but it will return to 50/50 by the end of Fiscal Year.

The increase in net assets will be near \$3.7M largely due to vacant overhead positions. The FY21 Financial plan projected an increase of \$3.1M. The agency is slowly filling some of these vacant overhead positions. This will be taken into consideration when preparing the FY22 budget.

Mr. Patel also discussed the Accounts over 90 days report. Finance staff and project managers are working diligently on collections. Mr. Patel updated the status of each open account:

- Prince George's County – recently received confirmation that payment will be processed within next two week.
- Montgomery County – Workday now combines multiple projects and accounts under a single customer number. All projects are reconciled. These accounts should be paid within two weeks.
- Town of Sudlersville – the final invoice was sent to the Town last week.
- Maryland Correctional Pre-Release System – All requested documentation has been provided. Payment is being processed
- DC Dept. of General Services – A payment plan has been implemented for the balance to be paid by September.

- Southstar L.P. – Customer is paying current invoices. The amount past due is to replace money in the sinking fund. This amount will be broken down into smaller payments.
- Canusa – documentation is being prepared for recyclable pricing differences.
- Wise Recycling and J.R. Sales – are in in Legal for processing.

HUMAN RESOURCES REPORT

Ms. White reported that the agency has 872 current positions. The vacancy rate will be 6.38% once pending new hires are brought on board. Remote hiring and orientation are ongoing.

GROUP UPDATES

Dr. Glass introduced Ms. Marni Dolinar, the Acting Director of Environmental Dredging and Restoration. Ms. Dolinar highlighted the Fishing Creek Dam improvements and dredging, Phase I alternative analysis. This is the first task of a new 10-year MOU with the City of Frederick.

Dr. Glass introduced Mr. Tim Ford, the Acting Director of Environmental Operations. Mr. Ford highlighted the Montgomery County leachate hauling and other support services project. MES procured a tractor and tanker trailer in 2013 to transport pretreated leachate from the closed Oaks Landfill in Laytonsville to the WSSC discharge station in Derwood. MES transported 4.7 million gallons of leachate in FY20, and over 2.4 million gallons in the 9 months of FY21.

Mr. Gillespie discussed the DNR Environmental Review Program (ERP). MES provides MDOT-SHA with three Environmental Reviewers who work at DNR providing environmental review of MDOT_SHA projects. These MES employees work under the direction and guidance of DNR ERP management staff and submit draft information for manger review.

PROCUREMENT ITEMS

Ms. Crosby introduced Item 1. The procurement is a pre-solicitation approval for \$1,659,600.00 for the ECI Natural Gas Pipeline and Propane conversion which is projected to be completed by September 2021. Mr. Snee made the motion to approve the item, Mr. Smith seconded. The motion passed unanimously.

Ms. Crosby introduced Item 2. The procurement is a pre-solicitation approval for \$498,907 for the installation of Phase V landfill gas collection system at the Brown

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Station Landfill. Mr. Smith made the motion to approve the item, Mr. Hall seconded. The motion passed unanimously.

Ms. Crosby introduced Item 3. The procurement is a pre-solicitation approval for \$1,600,000 for on-call loading, hauling, and disposal of leachate services at Brown Station Landfill and Sandy Hill Landfill. Ms. Heller made the motion to approve the item, Judge Smalkin seconded. The motion passed unanimously.

Ms. Crosby introduced Item 4. The procurement is for an inbound and outbound scale for the Montgomery County Dual Stream MRF. Toledo Mettler will provide the scale at a cost of \$280,085. Mr. Snee made the motion to approve the item, Judge Smalkin seconded. The motion passed unanimously.

Ms. Crosby introduced Item 5. The procurement is for transportation of leaves and yard trim from the Montgomery County Gridding Operation in Derwood to the Compost Facility in Dickerson. WB Waste Solutions, LLC will provide the service at a cost of \$627,030.95. Mr. Hall made the motion to approve the item, Mr. Smith seconded. The motion passed unanimously.

Ms. Crosby introduced Item 6. The procurement is change order with Concrete General, Inc. for \$350,000. It is for drainage management, remediation and maintenance services along the Capital Beltway for MDOT SHA. Mr. Smith made the motion to approve the item, Mr. Hall seconded. The motion passed unanimously.

Ms. Crosby introduced Item 7. The procurement is a pre-solicitation approval for \$10,000,000 for the supply and hauling of fill material for the Masonville Dredged Material Containment Facility. Mr. Smith made the motion to approve the item, Judge Smalkin seconded. The motion passed unanimously.

Ms. Crosby introduced Item 8. The procurement is a change order with Corman Kokosing Construction Company for \$2,350,000. The purpose is to add Colgate Creek Phase I and South Locust Point dredging, transport, and placement of material at the Masonville DMCF. Mr. Snee made the motion to approve the item, Mr. Hall seconded. The motion passed unanimously.

Ms. Crosby introduced Item 9. The procurement is for engineering support to MES in the development of the alternatives analysis for the Fishing Creek Dam Improvements and Dredging Project. The services will be provided by Anchor QEA at a cost of \$260,799. Mr. Hall made the motion to approve the item, Judge Smalkin seconded. The motion passed unanimously.

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Ms. Crosby introduced Item 10. The procurement is a pre-solicitation approval for \$750,000 to purchase two articulated dump trucks for the Poplar Island Ecosystem Restoration project. Mr. Snee made the motion to approve the item, Mr. Smith seconded. The motion passed unanimously.

Ms. Crosby introduced Item 11. The procurement is for statewide medical services for pre-employment, safety, and compliance drug testing. The services will be provided by Concentra at a cost not to exceed \$350,000. Mr. Hall made the motion to approve the item, Judge Smalkin seconded. The motion passed unanimously.

Ms. Crosby introduced Item 12. The procurement is to replace the wastewater treatment plant and sewer collection system at Victor Cullen. The work will be provided by HRI Construction, LLC dba M2 Construction LLC in MD for \$7,957,440. Mr. Smith made the motion to approve the item, Judge Smalkin seconded. The motion passed unanimously.

Ms. Crosby introduced Item 13. The procurement is a change order with The Brattle Group for \$100,000 (bringing the total contract to \$300,000). It is for additional technical and economic analysis services for the Maryland Energy Administration. Mr. Snee inquired about the original reason for the sole source designation. MEA choose Brattle Group as they are “the” expert on alternative energy pricing models and are also being used by several other States. Mr. Snee made the motion to approve the item, Mr. Smith seconded. The motion passed unanimously.

Ms. Crosby introduced Item 14. The procurement is for recyclable diversion services during facility renovations as the Prince George’s County Materials Recycling Facility (MRF). The transportation and recycling services will be provided by Blackbridge Investments at a cost of \$321,750. Ms. Heller made the motion to approve the item, Mr. Smith seconded. The motion passed unanimously.

The Board Notifications for Contracts, Purchase Orders, Amendments and Change Order between \$25,000 and \$250,000 were reviewed. Ms. Heller inquired as to how contractors are chosen to be on the various Short Lists. Ms. Crosby explained that solicitations are conducted for the various short lists. Vendors submit their credentials and price proposals. Responsive vendors are then added to approved short lists.

OLD/NEW BUSINESS

Dr. Glass expressed his appreciation to the Governor’s office, Senator McKray and Delegate Corman on the bipartisan efforts in crafting the MES Reform Act. The entire process was very professional.

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As of July 1st, the Board will be without a Chair. Dr. Glass would like to propose a motion to adhere to the currently scheduled 2021 meeting schedule until the time a new Board is appointed, especially the July meeting. Dr. Glass made the motion, Mr. Smith seconded. The motion passed unanimously. Elections for a new Board Chair will be conducted in July.

The Audit Committee reviewed and approved the Risk Assessment and Internal Audit Plan at the last meeting. The plan was then distributed to the entire Board. Dr. Glass asked if there were any questions or comments. Hearing none, he made a motion to approve the Plan. Ms. Heller seconded. The motion passed unanimously.

The next meeting of the Board is scheduled for May 27, 2021 at 9:30 a.m. An Audit Committee meeting is scheduled for 9:00 a.m.

Mr. Coleman advised that State Financial Disclosures are due by April 30th.

CLOSED SESSION

At 11:00 a.m., in accordance with MD. Code Ann., Gen. Prov. §3-305(b)(1), (7), and (8) Dr. Glass stated that the Board intended to enter closed session to approve the minutes of a prior closed meeting session, to discuss the performance of one of more individuals, to obtain advice of counsel, and to discuss current litigation. Dr. Glass asked if anyone objected to the Board entering closed session, and no objections were heard. He also stated that any member of the viewing public who objected, could submit their objection via email to the agency. Ms. Heller then made a motion that the Board enter closed session for the reasons stated above. Mr. Hall seconded the motion, all members voted in favor of closing the meeting. Dr. Glass announced that the meeting of the Board of Directors would immediately adjourn following the closed session. The public meeting then ended at 11:00 am. The Board members and Mr. Coleman, Mr. Hartlaub, and Ms. Fuller were then transferred to a secure conference video line.

Dr. Glass called the meeting of the closed session of the Board to order at 11:05 a.m. Present during the closed session of the Board were Board members Glass, Smalkin, Snee, Smith, Hall, and Heller and Assistant Attorneys General Coleman and Hartlaub, and Paralegal Fuller. At the start of the closed session Dr. Glass requested a motion for the approval of the minutes of the closed session from the meeting of October 22, 2020. Mr. Smith made the motion to approve the minutes and Mr. Hall seconded. The minutes were unanimously approved, with the exception of Ms. Heller who abstained, as she was not at the October meeting.

During the closed session the Board consulted with counsel on various litigation and investigation matters. No official action was taken. The closed meeting adjourned at 11:45 a.m.

ADJOURNMENT

The meeting adjourned at 11:45 a.m.

Frederic N. Smalkin

HONORABLE FREDERIC SMALKIN
SECRETARY

Charles Glass

CHARLES C. GLASS, Ph.D., P.E.
DIRECTOR