



Larry Hogan GOVERNOR

Boyd K. Rutherford LT. GOVERNOR

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

BOARD OF DIRECTORS MEETING MINUTES

MEETING 08-21

August 26, 2021

LOCATION: Conference/Video Call

TIME: 9:30 a.m.

DIRECTORS PRESENT: Charles Glass, Executive Director (video)
Judge Frederic Smalkin, Chair (video)
Robert Witt, Secretary (video)
Robert Neall, Treasurer (video)
Shelley Heller (video)
Marian Hwang, Esq. (video)
Nancy Kopp (video)
Hiram Tanner (video)
Bernadette Benik (video)

DIRECTORS ABSENT: None

OTHERS PRESENT: Sean Coleman, Esq. (video)
Ellen Frketic, Deputy Director (video)
Amanda Cooper (video)
Hattie Crosby (video)
Marni Dolinar (video)
Tim Ford (video)
Jason Gillespie (video)
Pamela Fuller (video)
Steven King (video)
Jana Leech (video)
Sharon Merkle (video)
Hament Patel (video)
Casey Powers (video)
Mark Serio (video)
Jeff Tosi (video)
Jewel White (video)

CALL TO ORDER

Judge Smalkin called the meeting to order at 9:32 a.m. Board members and staff participated via Zoom video. The meeting was streamed live to the public on YouTube.

Dr. Glass introduced the newest Board member, Mr. Hiram Tanner. He is a Civil Engineer and an MBA, who was a manager with DC Water for several decades. He has extensive experience with collection systems and water and wastewater processes. Judge Smalkin also introduced State Treasurer Nancy Kopp to the Board.

Judge Smalkin introduced Sean Coleman, the Principal Counsel for the agency from the Office of the Attorney General, Pamela Fuller, the Clerk of the Board, and Jana Leech, the Executive Associate who all do a tremendous amount of work behind the scenes.

MINUTES

Judge Smalkin requested discussion or a motion for the approval of the minutes of the meeting of July 15, 2021. The minutes were unanimously approved.

EXECUTIVE DIRECTOR'S REPORT

Dr. Glass reviewed the "How does MES work" matrix. Over the last year, he has been reviewing the Code, Regulations, Resolutions and Policies of the agency to ensure they are in line with the goals and values of the organization.

Dr. Glass presented the Executive Director's and Deputy Director's expense report for the last month. There was only one charge, the hotel room for Deputy Director Frketic to attend the Annual Conference of the Chesapeake Water Environment Association in Ocean City. Treasurer Kopp asked if there was a matrix of delegation, of who can do what, and who approves what, etc.

Dr. Glass and several agency staff members attended the Maryland Association of Counties (MACO) summer conference in Ocean City last week. Attendance at the conference was light, but there was good engagement. There were several interactions that will be followed up on in the near future. Southwest Airlines is looking at a renewable fuel developed from natural products in Maryland. This project may be passed along to the Maryland Energy Administration (MEA) or the Maryland Clean Energy Center, but the General Assembly's mandate that MES report on its support of the Greenhouse Gas Reduction Act support an exploration of the initiative. Mr. Tosi will be meeting with the Northeast Maglev Group. They are interested in MES

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supporting some of their predevelopment work. Mr. Tosi, Mr. Ford and Mr. Glass also met with 7 members of BioEnergy DevCo for possible future projects. MES might be able to process the wastewater at their Anaerobic Digesters at the Maryland Food Center Authority. They are also looking at blending their digestate with dredge material to create a topsoil.

Dr. Glass and Judge Smalkin thanked the entire team for a great tour of Hart Miller Island on August 5th.

On Sunday, August 22nd there was a total loss of water from the drinking water plant at ECI. For the next 48 hours both DPSCS and MES were in an “all-hands on deck situation” working to restore water supply. Ultimately it was determined the failure had to do with a 9-year-old Programmable Logic Controller. Dr. Glass expressed his thanks to the entire team for their coordination, intensity and grit throughout the entire situation.

AGENCY ACTIVITY REPORT

Judge Smalkin presented the Agency Activity Report and asked if there were any questions.

FINANCIAL REPORT

Mr. Patel presented the FY21 year end results. Overall, labor sales were good. Labor sales were \$213k less for FY21. This was less than FY20, but there were 27 billable periods in FY20, and only 26 in FY21. There was only a .585 percent difference from the expected difference of 3.85 percent due to one less pay period. The Change in Net assets is the total Revenue minus the total Expenses. For the FY21, the change in net assets was \$3.4 million. This money will be used for the BEST pool upon BOD approval, contingency fund and unrestricted net assets. The total net assets for FY21 was \$33 million. Once BEST payments are made, the Invested in Capital Assets and Unrestricted Net Assets split will be about 50/50.

Several factors impacted the Budget v. Actual. The 3.4M increase in net assets was due largely to the large number of overhead vacancies at the top levels of the agency for a large part of the year. Many of those positions have now been filled. Work has begun on the FY22 Plan. The preliminary report for FY22 was discussed. Fringe variance fluctuates based on the number of holidays, leave taken, snow days, etc. The fringe and overhead rates have been lowered for FY22. The FY23 rates will be based on

the final results from FY21. Progress has been made on the Accounts Over 90 Day Report.

HUMAN RESOURCES REPORT

Ms. White reported that the agency has 854 current positions. The vacancy rate will be 5.35% once pending new hires are brought on board. Remote hiring and orientation are ongoing.

HUMAN RESOURCES COMMITTEE REPORT

Ms. Hwang advised that the HR Committee met on August 19th. In open session they received an overview of the HR System at MES, and an update on the status of the policy review project. Once policies have completed internal review, they will be forwarded to the Board for comments and approval. It is anticipated that the policies identified in the MES Reform Act will be ready for the full board to review in September or October, for approval in November.

GROUP UPDATES

Ms. Dolinar presented the Port of Baltimore Terrapin Education and Research Partnership (TERP) program.

Mr. Ford presented the Prince George's County, Department of Environment FY22-FY26 Engineering and Contract Management Services agreement.

Mr. Gillespie presented the Renewable Energy Support services provided to various clients around the State.

Mr. Serio presented the St. Mary's County Stormwater Management Inspection Program.

PROCUREMENT ITEMS

Dr. Glass proposed that the agency might want to alter the way it approves Procurement Items at future meetings. Currently each individual item is presented and voted on individually. Due partly to the requirements of the new law, there will be more Items for approval. Dr Glass proposed the Board utilize a procedure similar to the Board of Public Works where all the procurement items that must be approved by the Board are made available to the Board members and the public in advance of the meeting and presented as a combined group for approval. Any questions would be

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addressed, and then the Board could take a single vote on the whole package. After some discussion, Dr. Glass decided to withdraw his proposal, and re-visit this discussion in the future after further consideration.

Ms. Crosby introduced Item 1. The procurement is for yard trim and leaf hauling from the Montgomery County Grinding Operation to the Yard Trim Compost Facility. Consolidated Commercial Services, LLC will provide the services at a cost of \$582,525. There is a 30% MBE goal. Ms. Heller made the motion to approve the item, the motion was seconded. No members were opposed, the motion passed unanimously, with the exception of Ms. Hwang who abstained from the discussion and vote.

Ms. Crosby introduced Item 2. The procurement is for video surveillance enhancements at the Montgomery County Materials Recovery Facility (MRF). Triangle Communications will provide the services at a cost of \$271,000. There is a 0% MBE goal. Ms. Hwang made the motion to approve the item, Treasurer Kopp seconded. No members were opposed, the motion passed unanimously,

Ms. Crosby introduced Item 3. The procurement is a pre-solicitation approval for \$2,752,000 for general labor services at the Montgomery County Recycling Center. Treasurer Kopp made the motion to approve the item, Ms. Heller seconded. No members were opposed, the motion passed unanimously.

Ms. Crosby introduced Item 4. The procurement is for purchase of an excavator at the Montgomery County Grinding operation. Elliott & Frantz, Inc. will provide the excavator at a cost of \$259,089. Mr. Witt made the motion to approve the item, Treasurer Kopp seconded. No members were opposed, the motion passed unanimously.

Ms. Crosby introduced Item 5. The procurement is for Area C engineering, permitting, and construction support at the Brown Station Landfill. SCS Engineers will provide the services at a cost of \$22,847,720. There is a 20% MBE goal. The County directed MES to issue the contract to SCS Engineers as they were in the midst of a multi-year contract before MES became involved, and the County needs to keep the project moving on schedule, as they will run out of room in the landfill by December 2025. Questions were addressed regarding MES sole-source procedures. Requests for sole-source contracts are reviewed by Ms. Crosby and Dr. Glass. Mr. Coleman indicated MES also follows the sole-source provisions of its Procurement regulations. Mr. Tanner made the motion to approve the item, Secretary Neall seconded. No members were opposed, the motion passed unanimously.

Ms. Crosby introduce Item 6. The procurement is for household hazardous waste collections at the Brown Station Landfill. ACV Enviro will provide the services at a cost

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of \$2,400,000. There is a 18% MBE goal. Ms. Heller made the motion to approve the item, Ms. Hwang seconded. No members were opposed, the motion passed unanimously.

Ms. Crosby introduce Item 7. The procurement is a pre-solicitation approval for \$668,500 for a barn replacement at the Brown Station Landfill. There is a 10% MBE Goal. Mr. Witt made the motion to approve the item, Treasurer Kopp seconded. No members were opposed, the motion passed unanimously.

Treasurer Kopp had to step away from the meeting, Ms. Benik remained on the line.

Ms. Crosby introduced Item 8. The procurement is a pre-solicitation approval for \$4,933,100 for boiler room modifications for the ECI Co-Generation Plant. There is a 17% MBE goal. Secretary Neall made the motion to approve the item, Judge Smalkin seconded. No members were opposed, the motion passed unanimously.

Ms. Crosby introduced Item 9. The procurement is for construction inspection at the ECI Co-Generation plant. C.C. Johnson & Malhotra, P.C. will provide the services at a cost of \$230,000. The MBE goal is to be determined. Judge Smalkin made the motion to approve the item, Mr. Witt seconded. No members were opposed, the motion passed unanimously.

Ms. Crosby introduced Item 10. The procurement is for engineering design support at the ECI Co-Generation plant. HDR Engineering will provide the services at a cost of \$248,581. There is a 0% MBE goal. Ms. Hwang made the motion to approve the item, Mr. Witt seconded. No members were opposed, the motion passed unanimously.

Ms. Crosby introduced Item 11. The procurement is a change order with Barton & Loguidice for \$162,512 (bringing the total contract to \$337,709). It is for design & permitting services provided to the Prince George's County Organics Composting Facility. There is a 22% MBE goal. Ms. Hwang made the motion to approve the item, Mr. Tanner seconded. No members were opposed, the motion passed unanimously.

Ms. Crosby introduced Item 12. The procurement is for local data annual submissions and TMDL GIS support for MDOT SHA. Whitney, Bailey, Cox, & Magnani, LLC will provide the services at a cost of \$316,088. There is a 40% MBE goal. Secretary Neall made the motion to approve the item, Ms. Hwang seconded. No members were opposed, the motion passed unanimously.

Ms. Crosby introduced Item 13. The procurement is for geothermal studies for the Maryland Energy Administration. Straughan Environmental will provide the

services at a cost of \$451,407. There is a 29% MBE goal. Mr. Witt made the motion to approve the item, Mr. Tanner seconded. No members were opposed, the motion passed unanimously.

Ms. Crosby introduced Item 14. The procurement is for water and sewer improvements at the New Germany State Park. WATEK Engineering Corporation will provide the services at a cost of \$407,845. There is a 29% MBE goal. Secretary Neall made the motion to approve the item, Judge Smalkin seconded. No members were opposed, the motion passed unanimously.

Ms. Kopp rejoined the meeting via phone.

Ms. Crosby introduced Item 15. The procurement is a pre-solicitation approval for \$275,000 for crew boat repower of the Blue Heron for Hart Miller Island. There is no MBE goal. Ms. Hwang made the motion to approve the item, Ms. Heller seconded. No members were opposed, the motion passed unanimously.

The Board Notifications for Contracts, Purchase Orders, Amendments and Change Order between \$25,000 and \$200,000 were reviewed.

LEGAL REPORT

Mr. Coleman reported that the right of entry with Exelon for the Conowingo dredging project has been signed by all the parties. Dredging is scheduled to begin after Labor Day.

The legal office has begun review of the MES policies forwarded to them. Staff will focus on the polices required by the Reform Act first. Mr. Coleman is also drafting a Conflicts of Interest policy, which should be ready for the September meeting. A fourth Assistant Attorney General started yesterday.

OLD/NEW BUSINESS

Judge Smalkin asked if there was any old or new business the board would like to consider. Dr. Glass reported that the bids received on the Board of Director's Assessment service were higher than expected. He will be meeting with Ms. Crosby to see how to move forward and still meet the General Assembly's due date for the assessment. He also congratulated Mr. Tim Ford, who is now the Managing Director for Environmental Operations.

The next meeting of the Board is scheduled for September 23, 2021 at 9:30 a.m. the Audit Committee will also meet on September 23rd, but the time has been changed to

8:30 a.m. An HR Committee meeting will need to be scheduled prior to the Board meeting for the purpose of reviewing the BEST results.

CLOSED SESSION

At 11:25 a.m., in accordance with MD. Code Ann., Gen. Prov. §3-305(b)(1) Judge Smalkin stated that the Board intended to enter closed session to approve the minutes of a prior closed meeting session, and to discuss the performance of an individual employee of the Service. Judge Smalkin 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. Hwang then made a motion that the Board enter closed session for the reasons stated above. Ms. Heller seconded the motion, all members voted in favor of closing the meeting. Judge Smalkin announced that the meeting of the Board of Directors would immediately adjourn following the closed session. The public meeting then ended at 11:30 am. The Board members and Mr. Coleman and Ms. Fuller were then transferred to a secure conference video line.

Judge Smalkin called the meeting of the closed session of the Board to order at 11:35 a.m. Present during the closed session of the Board were Board members Smalkin, Heller, Kopp, Benik, Hwang, Neall, Witt, and Tanner, Assistant Attorney General Coleman, and Paralegal Fuller.

At the start of the closed session Judge Smalkin requested approval of the minutes of the closed session from the meeting of July 15, 2021. There were no comments or corrections. The minutes were unanimously approved.

The Board then reviewed and discussed modifying the salary for the Executive Director. After discussion, the Board unanimously approved an annual salary of \$225,000 for the Executive Director, effective immediately.

ADJOURNMENT

Upon motion by Judge Smalkin, the meeting adjourned at 11:51 a.m.



ROBERT L. WITT, II
SECRETARY



HONORABLE FREDERIC N. SMALKIN
CHAIR