



Larry Hogan GOVERNOR

Boyd K. Rutherford LT. GOVERNOR

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

## **BOARD OF DIRECTORS HUMAN RESOURCES COMMITTEE MEETING MINUTES**

**March 24, 2021**

**LOCATION:** Conference/Video Call

**TIME:** 2:00 p.m.

**COMMITTEE MEMBERS PRESENT:**

Joseph Snee, Esq. (video)  
Judge Frederic Smalkin, Secretary (video)  
Morgan Hall (video)

**OTHERS PRESENT:**

Charles Glass, Chairman (video)  
Shelley Heller (video)  
Sean L. Coleman, Esq. (video)  
Hament Patel (video)  
Jewel White (video)  
Tammy Banta (video)  
Vishal Bhatia (video)  
Dan Faoro (video)  
Pamela Fuller (video)  
Jana Leech (video)

**CALL TO ORDER**

Mr. Snee called the meeting to order at 2:05 p.m. Board members and staff participated via Teams video. The meeting was broadcast live to the public on YouTube.

**MINUTES**

Mr. Snee requested discussion or a motion for the approval of the minutes of the meeting of May 27<sup>th</sup> and 28<sup>th</sup>, 2020. Mr. Hall made a motion to approve the minutes, and Mr. Snee seconded. The minutes were unanimously approved, with the exception of Judge Smalkin, who abstained.

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Ms. Banta presented an overview of the BEST, BEST Plus, and Executive Incentive Programs at MES. In 1970, Governor Mandel signed Chapter 240, 1970 Acts of the General Assembly creating MES. MES began as an agency within DNR, funded through traditional State appropriations; however, in 1989, the MD General Assembly ceased direct appropriations to MES for operations. In 1993, the MD General Assembly approved legislation to: restructure MES, making it a self-supporting agency, separate it from DNR, exempted it from most State procurement regulations, and gave it the authority to set up an independent personnel system.

The legislation directed MES to establish a personnel system based on merit, to compensate employees based on performance, and to include fair and equitable procedures for the redress of grievances, and for the hiring, promotion and laying off of employees. Significant work was undertaken to transition the agency to independent status. Regulations implementing the new independent Human Resources System became effective Jan. 1, 1995.

Employee incentives and benefits were developed because MES recognized its most valuable resource was its employees. In 1995, the Board authorized use of Program Development Funds to create an employee bonus and incentive plan (Resolution 95-08-3R). In 1997, MES became the first State agency to adopt Performance Based Compensation rewarding employees for initiative and innovation and requiring a certain level of performance for continued employment. On June 24, 1999, the Board adopted Resolution 99-06-01R to establish an executive compensation program, adopt a statement of executive compensation philosophy, and direct the Director to review certain salaries; and develop an employee bonus plan, an executive incentive plan, and performance evaluation plan.

On Oct. 28, 1999, the Board adopted resolution 99-10-06R establishing an employee incentive program known as the BEST Program. Incentives are only paid to employees if MES is successful in achieving or exceeding defined performance goals that are approved by the Board prior to the fiscal year. The purpose of the BEST program was to recognize and reward all eligible employees for contributing to the continued growth and strength of MES, to pay employees an incentive for meeting and exceeding preset goals, to emphasize that all MES employees have an impact on the 'bottom line', and to link the importance of cooperation & teamwork to the growth and success of MES. The Board determines (a) the success of MES in meeting the goals established for the prior fiscal year, and (b) the total amount of funds available to the BEST Program. Each individual payment is determined by dividing the BEST Pool of Funds by the

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number of eligible employees. The amount shall not be less than \$100 per eligible employee.

The program also established a BEST Plus payment, an additional payment to employees who have made extraordinary contributions to achieving the BEST goals of the Service or for extraordinary performance. On October 28, 1999, the Board adopted Resolution 99-10-07R establishing an Executive Incentive Plan. The goal was to attract and retain qualified and competent executives to provide innovative, responsive, and cost-effective environmental management services to Maryland's local governments, State and Federal agencies, and private entities.

In FY20, MES celebrated its 50th Anniversary with a record financial performance and historic economic impact on the State. MES had a record-setting revenue of \$182.2 million from state, county, municipal, and private sector client projects and services. Two-thirds of agency revenue flowed directly back into the private sector, including nearly 29% to Minority Business Enterprise partners. The FY20 revenue was a 13% increase (\$21.1M) over FY19 and was driven in part by significant environmental projects across the State. MES also had growth of \$1.28M in total billable labor in FY20.

At the April 30, 2020 meeting, the Board was provided a history of the BEST Program and a 2020 BEST progress update. The Board adopted MES Resolution No. 20-04-2R determining that MES had met the FY20 BEST Goals and authorized that a BEST payment be made to eligible employees. This was done in recognition of the considerable efforts and personal sacrifice that MES employees had undertaken to carry out their duties and maintain the critical mission activities of the Service during the State of Emergency and to provide a financial boost right as the COVID-19 pandemic began adversely impacting the economy. The Board did not authorize the early payment of either the BEST Plus component or Executive Incentive.

Since Aug. 2020, the MD General Assembly is reviewing certain actions taken by MES and the MES Reform Act of 2021 is currently moving through the Legislature. On Nov. 19, 2020, the MES Board adopted Resolution 20-11-1R suspending payment of any further FY20 BEST, BEST Plus, or Executive Incentive to MES employees until after the close of 2021 Legislative Session. The resolution further provided that between the close of the 2021 Legislative Session and before June 30, 2021, the Board shall consider whether to pay an additional BEST amount and pay BEST Plus and Executive Incentive for FY20 to MES employees. If the Board takes no action, no further FY20 payment will be made to MES Staff. If the Board takes action, only staff employed by MES on a date established by the Board will be eligible for a payment.

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There are numerous differences in benefits allotted to State employees versus MES employees:

- MES employees can purchase health benefits similar to State employees, but other benefits were found to be significantly less overall than those of State agency employees
- State employees earn up to 34 days of leave per year, while MES employees earn up to 21 days (13 days less). This equates to an annual benefit (based on actual yearly salaries) of \$2,342,877 that MES employees do not receive
- The MES maximum retiree health benefit is ~\$2,000 to \$6,000 less annually (\$5,500 max. paid in the form of medical expense reimbursement) than the State minimum and requires more than 30 years of service with MES to be eligible
- State employees are credited with one month of pension service credit for every 22 days of accumulated unused sick leave when retiring, while MES employees lose all accumulated sick leave when they retire
- The State Retirement/Pension System provides a monthly lifetime retirement annuity. In contrast, MES provides a 401(k) plan for its employees
- The employee retirement benefit is based on an employee's tax-deferred savings along with a maximum 6% contribution match made by MES, while the employer's contribution rate for MES employees in the State Pension System is 20.71%
- Due to starting salaries, employer contributions are significantly lower for initial years of employment which greatly affects an employee's retirement fund balance
- Based on the salaries of MES staff employed at the time of analysis, MES would have contributed an additional \$6,127,487 in FY20 towards retirement of its employees if MES was part of the State Pension System

MES management acknowledges that our employees are our most valuable asset and that as an Agency we strive to attract and retain qualified and competent staff to provide innovative, responsive, and cost-effective environmental management services. The MES Performance Incentive Compensation plans help to offset some of the disparity between the benefits afforded to most State employees and the benefits of MES employees. When considered as part of the overall MES employee compensation plan,

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this allows employees to receive additional compensation based on achievement of a defined set of goals while keeping the base rates charged to clients of MES low

Mr. Patel presented a summary of BEST payouts for the last five years. The agency is asking for \$3.2 million for the total incentive program, which represents 1.8% of total revenues. This would break down to \$2.3 million for BEST payments, \$789,480 for BEST Plus, and \$120,605 for Executive Incentive. The BEST payment consists of \$3,000 which was paid in April, and another \$300 to be paid this spring. The additional payment would only be made to current MES employees at the time of distribution. The BEST payments comprise 71.77% of the Incentive funds, BEST Plus 24.49% and Executive Incentive 3.74%.

The Committee discussed motions to make recommendations to the full Board on these BEST Program payouts.

The first motion is to recommend the Board approve the remaining FY20 BEST payout of \$300 per employee. Judge Smalkin made the motion to authorize the recommendation, Mr. Hall second. The motion passed unanimously.

The second motion was to recommend the Board approve the distribution of FY 20 BEST Plus payments. Judge Smalkin made the motion, Mr. Hall seconded. The motion passed unanimously.

The third motion was to recommend the payment of Executive Incentive payments from the pool of designated funds. The payments would not be more than 10% of an executive's salary. The Deputy Director's payment was already paid out before her departure. Judge Smalkin made the motion, Mr. Hall seconded. The motion passed unanimously.

The Committee will propose a Resolution at the full Board meeting that will adopt this motions and revoke the previous Resolution. Employees need to be employed as of March 25th and have to have completed their probation before June 30, 2020. Any new hires since June 30th are not eligible, as these payments are for the FY20 BEST program. This is consistent with past BEST payments.

Mr. Snee remarked that former Board member Larry Shubnell helped develop this program, and it has been wildly successful.

Finally, the committee recommended the FY21 goals be the same as the FY20 goals. Those goals are:

- Improve the environment through MES projects and programs

- Maximize employee development, including recognition, education, and training; improve facilities and enhance employee amenities and benefits
- Retain existing partners and develop new ones, consistent with our vision and mission statements
- Improve environmental compliance, and provide a safe work environment for our employees, partners, and public citizens
- Increase the efficiency of administrative procedures, processes, and policies (in collaboration with the MES Board of Directors)
- Support and enhance the MBE Program
- Reduce non-labor overhead expenses as a percentage of total labor revenues
- Benefit our partners and the citizens of Maryland through community service

**OLD/NEW BUSINESS**

Mr. Hall inquired if an analysis of Executive salaries had been conducted. Dr. Glass suggested that be an item for a future meeting.

**ADJOURNMENT**

Upon motion by Mr. Snee the meeting adjourned at 2:47 p.m.

*Marian C. Hwang*

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**Marian Hwang  
Chair, Human Resource Committee**