



Larry Hogan GOVERNOR

Boyd K. Rutherford LT. GOVERNOR

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

**BOARD OF DIRECTORS
MEETING MINUTES
MEETING 9-22
September 29, 2022**

LOCATION: Headquarters/Video Call

TIME: 9:30 a.m.

DIRECTORS PRESENT: Judge Frederic Smalkin, Chair
Robert Witt, II, Secretary (video)
Robert Neall, Treasurer (phone)
Joanne Kille, Deputy State Treasurer (video)
Marian Hwang, Esq. (video)
Shelley Heller (video)
Hiram Tanner, Jr., P.E.
Charles Glass, Ph.D., P.E.

DIRECTORS ABSENT:

OTHERS PRESENT:

Sean Coleman, Esq. (video)	Melissa Slatnick
Ellen Frketic	Steven King
Tim Barr	Erin Lanagan
Steven Barzal	Jana Leech (video)
Hattie Crosby	Casey Powers (video)
Marni Dolinar	Rick Turnbull (Inspire)
Tim Ford	Greg Wilkinson (Inspire)
Pamela Fuller	Priscilla Carroll, Esq. (closed session)
Hament Patel	

CALL TO ORDER

Judge Smalkin called the meeting to order at 9:40 a.m. Some Board members and staff were present at Maryland Environmental Service (MES) Headquarters, and other Board members and staff participated via Zoom video call. The meeting was streamed live to the public on YouTube.

INSPIRE AWARDS

Mr. Ford presented an Extraordinary Service Inspire award to Rick Turnbull for his work in researching, acquiring funding, and implementing a innovative gas engine for use at the Midshore I Landfill to convert landfill gas into usable energy.

Mr. Barr presented an Extraordinary Service Inspire award to Greg Wilkinson for his work in creating a math course to assist Water/Wastewater operators to pass their required certification courses for their licenses. The passage rate of MES operators has since increased from 37.68% to 55.10%.

All Inspire awardees left the meeting after the awards were distributed.

MINUTES

Judge Smalkin requested discussion or a motion for the approval of the minutes of the Board meetings on August 25, 2022. No corrections or objections were noted, and the minutes were unanimously approved.

EXECUTIVE DIRECTOR'S REPORT

Dr. Glass presented the Executive Director's and Deputy Director's expense reports for the last month. Neither of them had any expenses during the reporting period.

Dr. Glass then presented his list of external engagements. Many contacts were made during the Chesapeake Tri-Association Summer Conference which was August 30 to September 2. Dr. Glass was the keynote speaker and presented an overview of the agency. The MES team competed in several challenges after not attending for several years. Dr. Glass also visited the Eastern Correctional Institution wastewater treatment plant last month and saw the new reverse osmosis membrane system.

The Maryland Clean Energy Center (MCEC) will be moved away from the MES Human Resources system by the end of the year. They will then be supported by the Department of Budget and Management (DBM) for their benefit needs.

A significant amount of time is being dedicated to implementation of the class and compensation study as well as reducing the vacancy rate. The Environmental Specialist career ladder will be presented later in the meeting. The agency recently

learned that the State personnel system now has a minimum salary of \$15.80/hr, not \$15. The State salary card has been increased significantly over the last few years, while the MES salary card has remained static. Multiple recommendations are being prepared for the Human Resources committee to help mitigate these new differences. Dr. Glass and agency personnel have been meeting with Community Colleges across the State and attending numerous career fairs in an effort to further reduce vacancies.

MES is anticipating that it will remain engaged at the Back River WWTP until at least the end of the calendar year. Major construction and mechanical work continues. Maryland Department of the Environment (MDE) and Baltimore City Department of Public Works (DPW) continue to work on agreements for future improvements.

On August 26th, the first Strategic Advance kickoff meeting was held. This is the first time the entire upper management team assembled together in person since Dr. Glass became head of MES. The group will work on making the performance measures in the Strategic Plan a reality. The group will meet again in December.

AGENCY ACTIVITY REPORT

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

FINANCIAL REPORT

Mr. Patel presented the preliminary Financial Statements for August 2022. Labor sales are similar to last year. Mr. Patel is confident the Agency will achieve the 4% increase in revenue by fiscal year-end and will meet or exceed the budget. Overhead expenses will be higher this year than last year as all the Managing Director positions are now filled.

Comparing FY23 to FY22 at the same point – labor sales are 4% higher, overhead recovery is better, overhead expenses are higher. The increase in net assets will even out over the course of the fiscal year. Revenues are higher, due in part to pass through capital projects.

HUMAN RESOURCES REPORT

Mr. Barzal presented the Human Resources Report. The vacancy rate is currently 7.52%, which is lower than the vacancy rate reported during the previous month's Board of Directors meeting. The agency is on target to achieve a 5% or lower goal.

RESOLUTION 2022-09-1R

Mr. Barzal presented Resolution 2022-09-1R to grant the day after Thanksgiving as an additional holiday for MES employees in 2022. MES employees do not automatically receive this day as a Holiday. It has been granted by resolution for the about the last 10 years. Ms. Hwang made a motion to approve the Resolution, Judge Smalkin seconded. The motion passed unanimously.

HUMAN RESOURCES REPORT

Hs. Hwang reported the Human Resources Committee met earlier today to discuss several matters. She then asked Ms. Frketic and Mr. Patel to discuss the BEST program.

BEST FY22:

Ms. Frketic reviewed the final status of the FY22 Best Goals. The agency achieved 100% with all goals, except for one. Covid restrictions in January and February prevented in-person sexual harassment training and limited the number of attendees when in-person training resumed. Despite restrictions, the agency was able to train 60% of employees, rather than the targeted 90%.

Mr. Patel reviewed the components of the BEST funding. The funding for the BEST program comes from the FY22 net earnings. The net earnings are made up of fringe variance, overhead variance, project variance, working capital, the equipment fund and interest income. These items total \$4,577,000. In addition, he is recommending adding \$37,992 left over from the FY21 BEST fund that were not paid out due to eligible employees who left before the payout, for a grand total of \$4,614,992. This is about one million dollars more than last year. This increase is almost entirely due to an increase in the project variance funds due to increase in billable labor in the service enter projects.

Since the agency met 98% of its goals, and the only goal not fully met was beyond the control of agency employees, the agency is recommending distributing 100% of the BEST pool. From that full total, the agency will deduct the amounts necessary to pay FICA, Medicare and 401k for eligible employees. This leaves \$4,063,962 for the BEST pool. MES management is recommending distributing that pool as follows:

- BEST Amount 60% \$2,439,596 (\$4,025 per employee)
- BEST PLUS 35.30 \$1,434,696
- Executive Incentive 4.67% \$189,670

Efforts are being made to ensure BEST Plus is distributed in a fair and transparent manner. No employee will receive a BEST, BEST Plus or Executive Incentive that totals more than 14% of their base salary. BEST Plus is connected to annual performance appraisals.

The BEST pool funds, comprised of net earnings, can only be used for the BEST Payout or placed in Contingency Funds. Items contributing to the larger than normal balance include a focus on billable labor and reduction in overhead expenses, fewer employees than FY21 and increase in billable labor in the “service center” projects.

Secretary Neall asked if this could be approved at a later date, as he was expecting a recommendation from the HR Committee. If this is a full Board decision, he wanted more time to review the information. Mr. Patel indicated the amounts must be approved before the Auditors can complete the FY22 Financial statements and complete their annual audit. This would have to happen within the next 2-3 weeks to maintain the audit timeline.

Ms. Hwang wants the Board to consider the incredible work done by the agency employees which is evidenced in such things as the Inspire awards and the work done at Back River, balanced with their need to carefully evaluate how the Board approves incentive payments. Judge Smalkin proposed the Board meet on October 10th at 1pm to consider this matter.

Environmental Specialist Career Ladder:

Ms. Dolinar presented the Environmental Specialist (ES) career ladder for review and approval. Restructuring the current Environmental Specialist classification is necessary for the agency to establish an enhanced career path with education, trainings, certifications and career growth opportunities for new and existing environmental specialists. This enhanced ladder moves ES Trainees from a grade 2 to a grade 3 and adds the Senior ES II level. The HR Committee recommends approval of the career path. Judge Smalkin made a motion to approve the Environmental Specialist career ladder, Mr. Witt seconded. The motion passed unanimously.

Timeclock Policy:

Mr. Patel presented a new policy for review and approval. The Timeclock Policy covers the use of digital time clock and time clock data at certain MES facilities designated by management. Some facilities already have manual time clocks. The data from these clocks is manually entered in Workday by administrative staff. New digital timeclocks will be integrated with Workday. Procedures and controls will be put in

place to ensure the accuracy of time entered. The new clock is currently being tested at the Midshore Landfill. The timeclocks will only be rolled out at larger centralized facilities like landfills and MRFs. The HR Committee recommends approval of the Timeclock Policy. Secretary Neall made a motion to approve the Timeclock Policy, Judge Smalkin seconded. The motion passed unanimously.

Background Check Policy:

Dr. Glass introduced the Background Check Policy for review. The agency has been working on drafting this policy for a while and is now asking for input from the Board. Dr. Glass asked the Committee and the Board to submit any questions or comments to Mr. Coleman or himself.

GROUP UPDATES: SAFETY AND ENVIRONMENTAL COMPLIANCE

Ms. Lanagan, the Chief of Safety and Environmental Compliance (SEC) presented an overview of the Division. She presented a history of the Safety and Compliance programs at MES and numerous safety statistics for the last few years including employee injuries, vehicle accidents and equipment accidents. She also reviewed the regulatory inspections and audit findings, and the role of the Safety and Environmental Compliance Committee.

PROCUREMENT ITEMS

Ms. Crosby presented Item 1. The procurement is a change order with Nalco Company, LLC for \$126,077.39. It is for boiler water treatment chemicals provided to ECI, MCI, and JCI facilities. There is a 6% MBE goal. Secretary Neall made the motion to approve the item; Judge Smalkin seconded. No members were opposed. The motion passed unanimously.

Ms. Crosby presented Item 2. The procurement is a change order with Soil and Land Use Technology, Inc. (SaLUT) for \$92,574. It is for Task 18-14 outfall rehabilitation services for MDTA. There is a 0% MBE goal. Judge Smalkin made the motion to approve the item; Mr. Tanner seconded. No members were opposed. The motion passed unanimously.

Ms. Crosby presented Item 3. The procurement is for the Rocky Gap State Park sanitary sewer improvement project, Phase 2. Excavating Associates, Inc. will provide the services at a cost of \$1,275,023. There is a 8% MBE goal. Mr. Witt made the motion

to approve the item; Ms. Kille seconded. No members were opposed. The motion passed unanimously.

Ms. Crosby presented Item 4. The procurement is for a Volvo L150H Wheel Loader for the Montgomery County Yard Trim Composting Facility. McClung-Logan Equipment Co., Inc. will provide the wheel loader t a cost of \$445,183. There is a 0% MBE goal. Mr. Tanner made the motion to approve the item; Secretary Neall seconded. No members were opposed. The motion passed unanimously.

Ms. Crosby presented Item 5. The procurement is a change order with Anchor QEA for \$101,816.05. It is for TSA III Task 21 – Pearce Creek support services. There is a 29% MBE goal. Judge Smalkin made the motion to approve the item; Ms. Hwang seconded. No members were opposed. The motion passed unanimously.

Ms. Crosby presented Item 6. The procurement is for leachate pre-treatment facility upgrades at Brown Station Road Landfill. EA Engineering will provide the engineering, design, permitting, commissioning, and construction services at a cost of \$1,014,817.72. There is a 32.2% MBE goal. The technical committee reviewed and scored the proposals on their technical merits, with no knowledge of the price proposals. The committee, which included representatives from Prince Georges’ County concluded that EA Engineering’s proposal and methodology were significantly better than the other proposals. The technical scores are weighted more heavily than the price scores. Mr. Tanner made the motion to approve the item; Judge Smalkin seconded. No members were opposed. The motion passed unanimously, with the exception of Ms. Hwang who abstained from the discussion, consideration, and vote.

Ms. Crosby presented Item 7. The procurement is a change order with Consolidated Commercial Services, Inc. for \$680,000. It is for yard trim and leaf hauling from the Montgomery County Grinding Operations to the Montgomery County Yard Trim Compost Facility. There is a 30% MBE goal. Judge Smalkin made the motion to approve the item; Secretary Neall seconded. No members were opposed. The motion passed unanimously.

Ms. Crosby presented Item 8. The procurement is for nine Dodge Ram Pickup trucks for the MES Fleet. Criswell Automotive will provide the trucks at a cost of \$425,000. There is a 0% MBE goal. Secretary Neall made the motion to approve the item; Judge Smalkin seconded. No members were opposed. The motion passed unanimously.

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

LEGAL REPORT

Mr. Coleman advised that the Board meeting agenda format may need to be updated starting October 1st to comply with new provisions to the Open Meetings Act.

OLD/NEW BUSINESS

The next meeting of the Board is Thursday, October 20, 2022, at 9:30 a.m. The Audit Committee will meet at 8:30 a.m. In addition, the Board will meet on October 10, 2022.

CLOSED SESSION

At 11:35 a.m., in accordance with MD. Code Ann., Gen. Prov. §3-305(b)(1) and (12) Judge Smalkin stated that the Board intended to enter closed session to approve the minutes of a prior closed-meeting session, to discuss an individual's employment contract, and to review information requested by an investigatory entity. Judge Smalkin asked if anyone objected to the Board entering closed session; 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. Mr. Witt then made a motion that the Board enter closed session for the reasons stated above. Secretary Neall seconded the motion, and 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 ended at 11:36 a.m. Staff members who were not required for the closed session left the meeting room.

Judge Smalkin called the meeting of the closed session of the Board to order at 11:40 a.m. Present during the closed session of the Board were Board members Smalkin, Witt, Neall, Kille, Heller, Hwang, Tanner, and Glass. They were joined by Mr. Coleman, Ms. Carroll, Ms. Frketic and Ms. Fuller.

Judge Smalkin requested approval of the minutes of the closed session from the August 25, 2022, meeting. There were no corrections or comments. The minutes were unanimously approved.

Mr. Coleman and Ms. Carroll updated the board on a current investigatory matter. At the October 20, 2020, meeting the Board voted unanimously to provide to the Joint Committee on Fair Practices and State Personnel Oversight copies of the approved minutes of the closed sessions of the Board meetings held on June 20, 2016, July 10, 2017, June 28, 2018, June 27, 2019, February 29, 2016, August 16, 2017, and May 28, 2020. Upon motion of Judge Smalkin, seconded by Ms. Hwang, the Board

unanimously confirmed that the same minutes may be made available to the Office of the State Prosecutor and the United States Attorney's Office in response to their request.

At 11:52 am Dr. Glass, Ms. Frketic and Ms. Carroll left the closed session.

The Board then discussed the draft employment contract for the Executive Director. No official action was taken.

ADJOURNMENT

The closed session and the meeting adjourned at 12:27 p.m.



ROBERT L. WITT, II
SECRETARY



HONORABLE FREDERIC N. SMALKIN
CHAIR