



MARINE CONTRACTORS LICENSING BOARD

c/o Maryland Department of the Environment

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MARINE CONTRACTORS LICENSING BOARD

DRAFT Meeting Minutes – September 9, 2024

Location: Virtual via Google Meet

BOARD MEMBERS PRESENT

Milton Rehbein
Tammy Roberson, MDE Rep
Daniel Lorian, Eastern Shore Rep.
Donna An, At Large Rep.

OTHERS PRESENT

Matthew Standeven, Board Counsel
Mike Eisner, Board Administrator

CALL TO ORDER`

The meeting was called to order by the Board’s Chairman at 10:01 am. Four Board members as well as the Board’s Counsel and Board Administrator were in attendance.

AGENDA REVIEW

The Board reviewed and approved the agenda for the meeting which included: a review and approval of minutes from the Board’s June 10, 2024 meeting, a (re)introduction of the Board’s new At-Large Board member Donna An, an update by the Board’s Administrator of licensing activities including license Category activity and revisions to applications and license certificates, an update of finances, and an update on the Board’s Administrator presentation to landscape professionals, a review of a new application for licensure, and other new business requested by Board members.

REVIEW OF PRIOR MEETING MINUTES

Board Members approved the minutes from the June 10, 2024 Board meeting.

NEW BOARD MEMBER APPOINTMENT

The Board Chairman (re)introduced its newest Board member Donna An. Ms. An has been appointed to serve as the At Large Representative for the Western Shore. Ms. An is a licensed Marine Contractor. Her business is located in Prince Georges County and brings expertise in nature-based solutions, living shorelines, and brings a stream restoration perspective. We are excited to have her as a Board member

OLD BUSINESS

Board Activities and Financial/Budget Report

Licensing Activities: In 2024 there are 25 licenses up for renewal that have expiration dates throughout calendar year 2024. To date, 25 have been notified of their need for renewal. Of these, sixteen licenses have been renewed. Four contractors will not renew their license. We continue to receive about 1-2 new license applications per month. Testing for new license applicants continues

to be virtual. The test is emailed to the applicant on the day and at the time requested. They then have 24 hours to email their exam back to the Board's Administrator.

Regulation Implementation Update

The Board's Administrator updated the Board on continued work being done for Category implementation. There are now updated applications for new Individual and Entity licenses on the Board's website. There is also updated information on the webpage that addresses Category licensing. Work was also done on updating the database to allow for Category implementation. The Administrator and MDE's Board Rep worked with MES to create the necessary database code to allow for storage of the new license categories. In addition, new fields were created to capture the dates of Category issuance for existing license holders, and the ability to print specific Marine Contractor licenses for the four license Categories. This includes for Categories 3 & 4, stating the specialty that the licensed Contractor is both qualified and limited to perform. The Board's existing Maintenance contract will cover the cost of these updates. The license renewal application and related renewal information was also updated to reflect Category selection requirements and shared with the Board for final review. The Board Administrator stated he felt it is in pretty good shape.

The Board Administrator shared that in cooperation with MDE's Board Representative, three online training sessions will be held for licensed contractors on the new renewal requirements for Category selection. There are about ninety contractors with licenses that expire December 31, 2024. Approximately thirty licensees have signed up for this training. Participants will receive three hours of continuing education credits. Dates for these trainings are September 10 & 12 at noon, and September 16 at 6:30 pm.

The Board Administrator intends to send applications for renewal by US Mail a month early, i.e. October 1, and also send renewal information via email at the same time.

Board Finances:

The Board's Administrator shared that the last Marine Contractors Board financial update on FY24 finances was through January 31, 2024. Fiscal Year 2024 began July 1, 2023 and ends June 30, 2024. An end of State FY2024 Fund Balance and Reconciliation report was received by the Board Administrator. State FY2024 was from July 1, 2023 to June 30, 2024. The results are presented here. The beginning fund balance for FY24 was \$155,390. The fund ending balance was \$117,809. Total Revenue received was \$72,800. Revenue is from renewal and new license two-year license fee, and for new applications the \$75 fee charged for manual and examination costs. The cost to run the Board is from costs incurred by administration of the Board, and legal expenses. Costs to run the Board include Board Administrator salary and fringe, postage, and miscellaneous costs. Legal costs from MDE's Attorney General's Office to date have been from Counsel support for promulgation of the recently issued and effective regulations that established four license categories, and litigation costs due to ongoing legal challenges to a Board determination. With this, Board administrative costs in FY24 were \$48,448, and legal costs were \$45,651. In addition, there is an additional indirect cost of 17.3% charged for both Board and Legal expenses. This amounted to another \$16,188. With this, the total Board expenses in FY24 were \$110,424. The shortfall between Board revenue and total expenses is significant. The prime reason for this shortfall is legal expenses. Based on a review of legal expenses in past years, these legal expenses are an anomaly. With regulations being issued and litigation further along, legal expenses are expected to decrease. However, it is important to state that litigation continues and there is potential for further legal challenges to Board determinations related to Category implementation.

The Administrator gave an update on FY24 funding remaining available for maintenance by MES. Of the \$5000 allocated for FY24, there was \$2,993 remaining at the end of July 2024. Since this contract ended June 30, 2024 with the close of the fiscal year, application has been made to extend this contract. It is expected that this extension will be approved. In addition, there is an additional FY25 allocation of \$5000 to support the continued development of technical training for marine contractors and database management. This is aimed at providing additional opportunities for licensed contractors to acquire the 12 hours of continuing education required for license renewal. MES is working on transitioning the Board's two online training classes from MES to MDE servers. It is not known how much this transition will cost the Board.

The Board's Counsel gave an update on the Gene Benton/Encompass Enterprises litigation. In late May, Board Counsel and Mr. Benton's attorney argued before a judge MDE's Motion for Summary Judgement. The judge granted the Department's motion to dismiss the case. This decision was appealed. Looking forward, the Circuit Court of St. Mary's County is required to transmit the record to the Appellate Court of Maryland. Testimony will not be required because fact finding is not a part of this process.

At the June 10 meeting it was suggested that a practical approach for review of licensee renewal Category selection is to compile a list of information that an applicant can submit if they so choose – to document/validate their Category selection. This list of optional documents will be in addition to the required submission of, at minimum, five locations where the licensed contractor performed marine contractor services. With this the Administrator was charged with compiling a list for Board review of documents to include on this list. This list of optional documents was prepared by the Board Administrator, and then reviewed and approved by the Board. It was stated that with time – it will become more evident to the Board what is important and/or determinative in review of renewal application Category selection.

The Board's Administrator shared information on the presentation he gave at a training hosted by the Chesapeake Bay Landscape Professionals and the Chesapeake Conservation Landscaping Council. It was held in cooperation with MDE. The focus of this training was Living Shorelines, but more specifically smaller scale nature-based and living shorelines type projects. It was a four day training, some of it in-person. There were licensed Marine Contractors who attended and received continuing education credits towards their license renewal. Prior to this meeting, the Board Administrator met with Board Counsel, Board Chairman and MDE's Representative to address the question: How can a landscaper, who experience with planting on land, can meet minimum work experience requirements for licensure to perform planting in tidal waters. The conclusion was that a company can either have an employee who can meet the minimum marine contracting experience requirements, or have in the company's employ, an individual who can meet minimum work via 'similar' work experience criteria. This information was shared at the training. The Board Administrator received no 'push back' from attendees. With the issuance of new regulations, 'similar contractor experience' as now defined in COMAR 26.30.01.0.1 means:

“construction, demolition, installation, alteration, repair, or salvage activities located above the mean high tide and requiring authorization from the Department, in accordance with Title 5, Subtitles 5 and 9, of the Environment Article, Md. Code Ann.”

NEW BUSINESS

New Applications

The Dutra Group: Michael Edde applicant for Representative. This application has not yet been reviewed by the Board. The Administrator will resend this for Board review.

No other new business was brought up.

ADJOURNMENT

The Board voted and approved adjournment at 10:56 am. The next monthly Board meeting is scheduled for December 9, 2024. October 14 is Columbus/Indigenous People's Day and November 11 is Veterans Day. The scheduled meeting December 9 is at 10 AM and will be Virtual.