

# THE STATE TRANSPARENCY AND ACCOUNTABILITY REFORM (STAR) COMMISSION

## State Transparency and Accountability Reform (STAR) Commission Meeting

May 17, 2021

10:00 AM

Held via Zoom and Live Streamed on [www.governor.maryland.gov/star-commission](http://www.governor.maryland.gov/star-commission)

### Minutes

Chairman Serafini calls the meeting to order at 10:00 AM.

Chairman Serafini takes roll

- Secretary David Brinkley (Dept. of Budget and Management) is not currently present, but joins a few minutes late
- Rhonda Ray (Managing Director, Dept. of Commerce) is present
- Michael Harrison (Policy Director, Dept. of Labor) is present
- James McKittrick (Dept. of Natural Resources) is present
- Bobbie James (Senior Advisor, Maryland Dept. of the Environment) is present
- Commissioner Kathleen Birrane (Insurance Commissioner, Maryland Insurance Administration) is present
- Delegate Marc Korman (Speaker of the House) is present
- Senator Brian Feldman (President of the Senate) is present
- Delegate Kathy Szeliga (Minority Whip, House Republican Caucus) is present
- Senator Addie Eckardt (Senate Republican Caucus) is present
- John Williams (CEO, Jamison Door; Univ. of Maryland Medical System, Conflict of Interest Subcommittee Chair, Member of Audit and Compliance Committee, Ethics) is present
- Karen Strylo (Maryland CPA Legislative Committee Member, Financial) is present
- Dr. Linda L. Singh (PMP, PCC, Major General (retired), Public) is present

Chairman Serafini entertains a motion to approve last meeting's minutes. Motion by Commissioner Birrane, seconded by Senator Eckardt. The minutes are approved.

Chairman Serafini turns the meeting over to representatives from Maryland Health and Higher Educational Facilities Authority (MHHEFA). Bart Savidge, Executive Director and Arnold Williams, Board Chair present

- The authority has never received any appropriations from the State - it operates as a self-sustaining organization
- The authority is focused on health care and education bonds

- Emphasizes leveraging market knowledge
- Utilizes expertise of independent financial advisory firm (PFM)
- Due diligence areas of focus:
  - Compliance
  - Financial
  - Project
  - Security and covenant structure
  - Tax analysis
  - Disclosure
  - Bond pricing
  - Post issuance compliance
- MHHEFA Governance
  - The Authority consists of 9 members
  - The Governor annually designates one members as Chairman and one as Vice-Chairman
  - Members serve 5 year staggered terms, there is no term limit
  - Meetings are subject to Open Meeting Act, minutes are posted online
  - Authority meetings are open to the public
- Audit committee is the only standing committee
- Ad Hoc committees may be established for certain review processes
- Andrew Cassilly asks if any members present serve on the board and how continuity is ensured
  - Mr. Arnold Williams explains that the board members show up 90% of the time. The Executive Director is present at every meeting, ensuring continuity. A number of members have also repeated terms so institutional knowledge is typically always available.
- Del. Korman asks if the Governor chooses the Chair
  - Governor does choose the chair
- Del. Korman asks how long the 9 board members have been serving to get an idea of the tenure.
  - Mr. Arnold Williams notes that most members that get 5 year appointments stay the whole 5 years, however, some have agreed to stay second or even third terms, one or two members have exceeded 15 years
- Secretary Brinkley joins the meeting
- Chairman Serafini asks how they would respond to moral obligations in terms of funding? Would the governor feel the need to help with financials if the Authority runs into financial trouble?
  - Mr. Savidge states that there is no funding from the state or any political subdivision and that the Authority makes that very clear. There is no impression

that there is any moral obligation. Most clients of the Authority are private institutions.

- Mr. Arnold Williams adds that bonds come with a bond rating. Board members do not feel obligated to approve bonds. The institution is at the meeting when approving a revenue bond and is available to answer questions about their financing standing. The Authority is very diligent with their scrutiny of the applicants and looks closely at financial standing.
- Dr. Singh asks what the Authority's conflict of interest policy is and how they ensure that it is being followed
  - Mr. Arnold Williams explains that the Authority does an annual report which lists the various organizations that each of the members are involved with. The Authority's legal counsel attends every meeting, so if a member may not recall a relationship, counsel will remind everyone. Any individual implicated with a potential conflict does not participate in the discussion or vote (they abstain). Ensure that every board member completes the State Ethics Commission disclosure.
  - Mr. Savidge adds that when the Authority issues a public statement the working group discloses any relationships that its members may have.
- Ms. Syrylo is interested in accountability and external reporting, and asks who it is that receives information outside of the members to review whether the organization is fulfilling its purpose, who outside the organization reviews the activities of the organization, reviews the annual audits, etc.?
  - Mr. Savidge notes that annual reports are publicly available on the internet, as well as a detailed distribution list that it goes to. Annual report is more detailed than the Authority's financial reports. Institutions do not have to choose the Authority as their issuer for bonds. Fortunate to work with all of the Maryland hospitals and many of the higher education institutions that issue debt.
- Ms. Syrylo follows up and asks if the annual report goes to DLS?
  - Mr. Savidge replies that it is submitted to DLS and goes to several legislators as well.
- Mr. John Williams asks if the Authority's attorney is from the Office of the Attorney General or if they use outside counsel?
  - Mr. Arnold Williams explains that they use outside independent counsel, and evaluate the services every 5 years and consider an RFP if needed. Legal Counsel cannot represent a borrower. The historical knowledge of the counsel is very important to the board. Also explains that Authority generally only goes into closed session to select underwriters.
- Mr. John Williams follows up and asks if the Authority is the issuer of bonds but is not subject to the liability?

- Mr. Savidge states that the Authority is available for the institution to access bonds, so they serve as the issuer but the Authority is not liable for the debt.
- Ms. James asks if the tax-exempt bonds are rated in any way, and also asks for the Authority to explain why the organization works best as a quasi-state agency?
  - Mr. Savidge explains that to issue tax-exempt bonds there has to be a governmental agency that is created for that sole purpose. Bonds are repaid by the institution, and bonds do obtain ratings from the three rating agencies. Each borrower gets a rating assigned for the bonds issued.
  - Mr. Arnold Williams explains that if there were a similar agency, it would be MEDCO (Maryland Economic Development Corporation), but MHHEFA specializes in the health and higher education space. Maryland is very particular in its healthcare system and we are the only state in the nation with a Medicaid waiver and its own rate-setting agency.
- Mr. McKitrick states that the Maryland Department of the Environment's Water Quality Authority is within the department. Could MHHEFA be within the Maryland Department of Health?
  - Ms. Elizabeth McKennon, the Authority's general counsel, replies that the Authority could be set up under a department, but they cover higher education and not just health. From an efficiency perspective, the Authority receives no state appropriations. Most states do it this way and it follows the pattern.
- Commissioner Birrane asks for confirmation that the Authority does not have a formal management incentive plan in place?
  - Mr. Savidge replies that Commissioner Birrane is correct, and that all bonuses are discretionary.
- McKitrick asks whether the nation has preserved these kinds of authorities or if there has been a move to a different structure?
  - Mr. Savidge explains that the same structure has prevailed, the model created in the 1970's continues to serve. About 40 states still use this model.
- The Maryland Health and Higher Education Facilities Authority's portion of the agenda concludes.

Chairman Serafini states that the Commission will now hear from the Northeast Maryland Waste Disposal Authority, and also notes that the Commission has received comments from the public which will be addressed now or shortly in the future.

Mr. Chris Skaggs, executive director, presents on behalf of the Northeast Maryland Waste Disposal Authority (NMWDA).

- NMWDA's mission is to provide services to its jurisdiction in order to help them handle solid waste

- The Authority was created in 1980 to provide services to 4 member jurisdictions, and has since gained 4 additional members. Mission is to provide service to those jurisdictions related to recycling and solid waste management. They largely work with local departments of public works.
- Board consists of 9 members nominated and then confirmed by the Governor. 8 members represent serviced jurisdictions, nominated by the locals and approved by the Governor. The director of the Maryland Environmental Service serves as an ex officio member.
- Board members are not compensated and are subject to state ethics laws and have to file annual disclosures.
- The Authority is funded by the locals or through membership fees.
- Agency follows procurement regulations, Public Information Act, etc.
- NMWDA uses GAAP and utilizes internal checks and balances and requires review by at least two people.
- All contracts over \$10,000 require board approval.
- Board meets approximately every two months.
- Annual audits by external auditing firms are sent to the Governor's office on a yearly basis, and are available to the public upon request.
- Ms. Syrylo asks if the annual audit report being sent to the Governor is a requirement via the agency's bylaws
  - Mr. Skaggs states that this is a requirement
- Chairman Serafini asks if the organization uses GAAP accounting
  - Mr. Skaggs confirms that it does
- Chairman Serafini states some of the issues that have been raised by constituents and notes that the Authority is aware of them. If the Authority serves at the pleasure of the counties, does that mean that more of the problems emerge from the local level?
  - Mr. Skaggs explains that NMWDA does not move forward on a project without county approval. Local elected officials could shut down projects if they do not want it. Funding is secured through the county so it is completely up to them.
- Chairman Seerafini asks what procurement policies the Authority follows?
  - Mr. Skaggs states that they follow regulations laid out in COMAR.
- Del. Korman notes that the Authority follows the PIA, and asks how they have maintained public access during COVID?
  - Mr. Skaggs replies that they have live streamed meetings via YouTube.
- Del. Korman asks how the Chair is selected, and if the executive director of MES is eligible to serve as chair?
  - Mr. Skaggs clarifies that the Chair is selected by the board members, and is not sure if the MES executive director could serve as chair.
- Commissioner Birrane asks if the audits are primarily focused on financials? How does the organization deals with more compliance-related audits and IT?

- Mr. Skaggs replies that audits are focused primarily on financials. There are no IT audits. He also states that internal procedures and personnel policies ensure the organization fulfills its statutory obligations.
- Mr. McKittrick asks whether the authority issues its own regulations and if these regulations go through the Administrative Procedures Act like other state agencies.
  - Mr. Skaggs explains that modifications to procurement procedures have to go through the legislative process (AELR).
- The Northeast Maryland Waste Disposal Authority's portion of the agenda concludes.

Chairman Serafini introduces the Maryland Stadium Authority (MSA) as the next agency to present. Thomas Kelso, board chairman and Executive Director Michael Frenz present

- Mr. Frenz introduces himself and states that he is proud of MSA's record of success and is always open to opportunities for improvement.
- MSA's reason for success is their experienced staff, thought leaders in their disciplines, and a desire to keep improving.
- MSA never wants to cover anything up because if something is wrong they want to fix it.
- MSA is highly successful because of the people that work at MSA. MSA does work from Baltimore City, to Hagerstown, to Ocean City, and school construction. People want them to do more work because of the great work they are already doing, which is on budget and on time.
- Del. Korman mentions that the legislature passed transparency legislation a few years ago and MSA happily embraced it. Hopes that other agencies will follow by live streaming meetings.
  - Mr. Frenz notes that live streaming was something MSA overlooked and really welcomed the opportunity to do it.
- Mr. McKittrick provides compliments to MSA on behalf of DNR for their work with Fair Hill.
- Ms. Strylo notes that the organization has an internal audit function as well as two external (including a DLS audit), she asks if other organizations should be held to the same standard?
  - Chairman Serafini notes that DLS provides an extra level of oversight and mentions that MSA provides budget updates to the legislature's budget committees. He asks whether they feel it is too much - does it take away time and resources?
    - Mr. Frenz does not believe that it is too much - he thinks that the variety of audits allows for a coverage of a variety of issues - layering on degrees of accountability is positive. OLA provides insight with compliance issues that you don't get with a financial auditor. MSA has to go before BPW and 30-day review and comment periods by the budget chairs for new

projects. Added accountability is something MSA is used to and it does not take up too much time.

- Mr. Kelso agrees - he thinks that testimony to the budget committees is super important because it is the organization's opportunity to help educate people about what they are doing - the excess provides more opportunities for communication. MSA is not lobbying the legislature, and sometimes there is a disconnect between what we're doing and what our capabilities are. We did not have an audit committee when I came to the board, only an internal auditor. Created the committee so the internal auditor could report to the board without having to go through staff in case there was an issue with the staff.
- Del. Korman notes that MSA is in the Governor's budget in some way, so there may exist an opportunity to require a budget submission to DBM for other agencies.
- Mr. John Williams asks if the organization may only use the Attorney General's office for legal advice or if they may go elsewhere
  - Mr. Frenz explains that they do not have input on the selection of an assistant attorney's general from OAG. Have sought external counsel for special areas of expertise but they have to be approved and hired by the AG's office - other than that, they always receive counsel through the AG's office.
  - Mr. Kelso explains that external counsel has to be hired by OAG and is a procurement. He sat on an interview panel, but everyone else on the panel was from OAG.
- Mr. John Williams follows up and asks if they are required by law to use OAG? If not required by law, would you seek external counsel instead?
  - Mr. Kelso notes that there is a long term benefit with the relationship with the AAGs at MSA.
  - Mr. Frenz states that it is useful to have AAGs on a day-to-day basis given their knowledge on state policies. A streamlined process would be helpful when we need external counsel.
  - Ms. James notes that each AAG assigned to an agency does become an expert. Understands the awkwardness that may arise when outside counsel is needed.
  - Commissioner Birrane mentions that this issue is not unique to MSA. This is the typical approach taken by OAG for agencies.
- Chairman Serafini asks for clarification that MSA would feel comfortable going to OAG if there was an issue with AAGs?
  - Mr. Frenz explains that yes, they would be comfortable, but they are happy with all three AAGs assigned to MSA.
- Chairman Serafini asks if it makes sense for MSA to remain a quasi-public agency? Should there be a school construction branch?
  - Mr. Kelso notes that MSA employees want to remain as MSA employees.

- Mr. Frenz explains that problems could emerge with spinning off the two programs. Construction side can wax and wane.
- Chairman Serafini thanks MSA for the work they do and will be doing in the future.
- The Maryland Stadium Authority's portion of the agenda concludes.

Maryland Food Center Authority (MFCA) presents next, with Don Darnall, executive director presenting

- Mr. Darnall explains that the presentation he is using is what it primarily used when onboarding a new board member.
- Maryland's Food Center Authority is one of the most definable food centers. Receive tour requests from USDA and other representatives from around the world.
- USDA puts forward the management model
- MFCA is directed by a 12 member public/private executive board appointed by the Governor, with 4 ex-officio members
- Initially charged with food markets in the 1960s. Concern was that the facilities were not appropriate. Sanitation situation was dire and the spoilage rate was extreme. First job was to build a modern food center to contain the wholesale markets and to act as a business cluster.
- Recent analysis shows that the Center has acted as an incubator where entities will branch off but remain close to the Center.
- Currently have 27 employees, but have 30 when fully employed. Use team leadership model. Empower the employees and depend on their input which increases their passion for the organization
- MFCA led the Maryland Food for Maryland Institutions workgroup and is working to operationalize the program.
- Main objectives
  - Customer satisfaction
  - Safety
  - Sanitation
  - Overall positive working environment
- Leadership circle consist of
  - Executive director
  - Director of market operations
  - Senior director of real estate and finance
- Each of these leaders oversees other sections of employees
- mission statement - to enhance economic growth opportunities for Maryland's agriculture, seafood, and food related industries
- Goals - to enhance economic growth opportunities for agricultural, seafood, and other food related industries by providing high quality support surfaces
- MFCA has Tenants Advisory Board where each facility has its own advisory board.

Board is elected by the tenants of each facility. They meet quarterly with MFCA to go over financials, market maintenance, waste removal, and anything that has a monetary impact on them.

- Mr. John Williams asks whether the private sector would have been able to provide the same services?
  - Mr. Darnall says that he does not believe that the private sector would have been able to do so. MFCA serves as an incubator. Private sector folks aren't as interested, whereas we are on the market everyday and it's competitive. Private sector hasn't wanted to engage. MFCA spends a lot of time educating ourselves on the food industry, and sometimes are more knowledgeable than the tenants.
- Del. Korman asks if there are term limits for board members and how the chair of the board is selected? Are ex officio members eligible to serve as chair?
  - Mr. Darnall clarifies that term limits are 5 years, the board selects the chair and notes that he likes to have chairmen that are from the private sector because he appreciates the perspective that they bring). He notes that they are not a high profile agency so it can be difficult to fill appointments in a timely manner. Board is not encouraged to select an ex officio member as chair. Try to remain apolitical. Executive director does not serve on the board but the statute would currently allow it.
- Sen Eckardt asks if the Senate approves board members and asks what kind of audits they are subject to?
  - Mr. Darnall confirms that the Senate approves members. MFCA is subject to legislative audits once every 4 years and internal audits annually which are reported to the state. He explains that in the past he has encouraged people to reach out to their elected officials about serving as a potential board member.
- Ms. James asks who the annual report is submitted to?
  - Mr. Darnell explains that Managing for Results goes to DBM, and audits go to the legislature.
  - Angela Hopkins, Senior Director of Real Estate and Finance, states that financial statements are submitted to the Comptroller and Treasurer.
- Ms. James asks why MFCA is served best as a quasi-public entity rather than a part of a traditional state agency?
  - Mr. Darnell explains that MFCA is a non-appropriated agency. If they were within an agency, their revenues could be sought after by an agency instead of for use on markets.
- Sen. Eckardt asks for confirmation that MFCA receives no state funds.
  - Mr. Darnell explains that that is correct. MFCA received a loan back in the 1970s which has been repaid. Use bonds to create some of the market structures, but no bonding has been used in the last 15 years. Most of what MFCA does can be financed internally.

- The Maryland Food Center Authority's portion of the agenda concludes.

Chairman Serafini asks for any closing questions and comments.

- Sen. Eckardt notes that there are a lot of similarities and differences between the agencies. Why do some have certain features that others do not?
- Chairman Serafini notes that it could be useful to have a shared space for similarities and differences for the commission's use. Boards for these entities vary greatly, as do the sizes of the entity. Based on size, could they afford board training, etc.?

Chairman Serafini states that the next meeting is June 14th and will feature the remaining five agencies. The Commission will take the months of July and August off and reconvene in September to start formulating the final report.

Chairman Serafini entertains a motion to adjourn the meeting. Motion by Senator Eckardt and seconded by Dr. Singh.

Chairman Serafini adjourns the meeting at 12:07 PM.

### **Commission Members**

Andrew Serafini, Commission Chair, Former State Senator; President, Serafini Financial Services, Public

David Brinkley, Secretary, DBM

Rhonda Ray, Managing Director, Commerce

Michael Harrison, Policy Director, Labor

Jeannie Haddaway-Riccio, Secretary, DNR

Bobbie James, Senior Advisor, MDE

Kathleen Berrane, Insurance Commissioner, MIA

Marc Korman, Delegate, Speaker of the House

Brian Feldman, Senator, President of the Senate

Kathy Szeliga, Delegate, Minority Whip, House Republican Caucus

Addie Eckardt, Senator, Senate Republican Caucus

John Williams, CEO, Jamison Door; UMMS, Conflict of Interest Subcommittee Chair, Member of Audit and Compliance Committee, Ethics

Karen Strylo, MD CPA Legislative Committee Member, Financial

Dr. Linda L. Singh, PMP, PCC, Major General (retired), Public

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