



MARINE CONTRACTORS LICENSING BOARD
c/o Maryland Department of the Environment

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MARINE CONTRACTORS LICENSING BOARD

Meeting Minutes – December 13, 2021

Location: Virtual Meeting via Google Meet

BOARD MEMBERS PRESENT

Milton Rehbein, Chairman
 Robert Murtha, SoMD Contractor Rep
 Tammy Roberson, MDE Representative
 Lester Kelly Wright, DNR Representative
 Douglas Suess, At Large Representative
 Chris McCabe, At Large Representative

OTHERS PRESENT

Mike Eisner, Board Administrator
 Matt Standeven, Board Counsel

CALL TO ORDER

The meeting was called to order by Mr. Rehbein at 10:00 am using the virtual platform Google Meet. Six Board members were present, as well as the Board's administrator and legal counsel.

AGENDA REVIEW

The Board reviewed and approved the agenda for the meeting which included: update of licensing activities, update on finances, discussion of a proposed 3 hour work group meeting on proposed tiered system of licensing and supporting regulation, and an update on Board appointments.

REVIEW OF PRIOR MEETING MINUTES

Board Members reviewed and approved by vote the draft meeting minutes from November 8, 2021.

Board Activities and Financial/Budget Report

Mr. Eisner gave an overview of licensing activities. Eighty-nine license renewal application packages were mailed on October 28, 2021 for those licenses expiring December 31, 2021. As of the date of this meeting, 25 applications for renewal have been received, and 12 new licenses have been issued. Applications that are incomplete are mostly due to renewal license fees not having been received and continuing education not being completed or appropriately documented.

Given the governor's emergency order in response to Covid, which was from March 5, 2020 to June 30, 2021, the decision was made to proactively reach out to licensees whose licenses expired during this time, and allow them a chance to renew their license. Efforts to contact licensees were via email, telephone, and letter. The response has been good and several licensees expressed appreciation for this effort. There are 11 licensees that expired December 31, 2020. Of these, 5 are either out of business or will not renew, 3 have renewed, 1 is in the process of renewing, and 2 were sent certified letters to notify them that their license would be canceled if we did not hear from them. There were 5 'periodic' licenses that expired during 2020. Of these 3 will likely renew and 2 said they'd get back to me. Finally, there are 15 'periodic' licenses that expired in 2021. Of these, 8 have been renewed, 5 will likely renew, and 2 will not renew their license. Mr. Eisner is receiving 1-2 new applications per month.

Mr. Eisner gave an update of the Board's present income/expense situation through October 2021. The Licensing Board is well funded at this point. Revenue is currently increasing due to license fees being received for licenses expiring the end of this year. The Board's administrator will receive a new computer soon with funding allocated in FY22 (\$2,095). The computer currently used has been on loan from MDE's Tidal Wetlands Program and will be returned. This Program is hiring new staff and the loaner computer is now needed. There is also \$6,308.75 in FY21 funds allocated and dedicated to the Maryland Environmental Service (MES). About half of these funds are for code review and migration to MDE Servers, of code developed for the existing MCLB 6 credit hour 'Safety' Training Modules. These modules are now online and available for use by licensees. The remainder of these funds (about \$3,000) can be used for development of a new training module.

A proposal was made at the November 8, 2021 meeting, to have a dedicated working session (ideally in person). This working session will be dedicated to furthering the Board agreed goal, of drafting regulations, and importantly, drafting regulations that will support the creation of a 'Tiered' system for marine contractor licenses. This meeting never happened. A new date was set for January 7, 2022 to meet and work on this planned 'Tiered system of licensig and supportive regulations. The Board agrees that specificity of skill sets needed for each Tier class will be an essential element of these regulations. The Board agreed that part of this work is to better define 'similar contractor experience' for any proposed license Tier. The suggestion was made and the Board agreed, that this working session should be 'closed.' Legal counsel informed of the need to file the appropriate closure form documentation.

There was an update on Board appointments and reappointment. Several Board members have not yet completed the process for Board appointment or reappointment.

It was discussed and agreed that meetings would continue to be scheduled every second Monday of every month, from 10 am – noon, and held or not held, depending on old or new business that needs to be addressed. Meetings will continue to be virtual.

The Board discussed contracting with MES to develop another online training module. This module would be available to licensed Marine Contractors for continuing education credits. The Board Administrator spoke with Theresa Foye, the GIS Section Chief for MES. Her message was that they can create whatever training the Board chooses. However, unlike the previous training modules created by MES for the MCLB, they have no available material to help quick-start new module development. Ms. Foye suggested a possible training topic that would be a 'big picture' look at permits and environmental regulation potentially relevant to a Marine Contractors. Questions that would be addressed could include: Why are there regulations and which ones are relevant for a Marine Contractor? Why are there environmental permits and a Marine Contractor License?

The Board brainstormed on other potential training topics. One topic suggested is MDE's permits and permitting process that may effect work in Tidal Wetlands. This could in essence be a 'Permitting 101,' that could educate on the permit application process from start to finish. Activity types suggested that could be a part of a training module include piers and dredging, shoreline erosion control, and the Living Shorelines Act including the waiver process. It was suggested that a meaningful coupling of training modules would be the 'big picture' followed by an introduction into the permit submission process. It was suggested that there also could be training on regulations. There are quite a few regulations currently under revision and being drafted. These include the proposed Marine Contractor tiered license system, water quality certification, a general permit for ports, and the Board of Public Works regulations. One Board member stated that most small operators may not do their own permitting. One Board member stated that these new modules could become a requirement in the process of obtaining a new Marine Contractor license.

As stated above, there is an estimated \$3,000 of FY21 funds available for development of a new training module. Ms. Foye stated that MES can wait to migrate the existing 'Safety' Module training code, until this potential new module is developed. With this, the cost of a new single training module would be an estimated \$3,000. MDE's representative shared that the Tidal Wetlands Program has information such as power points that could be given to MES for the online training modules, that could help control costs. It was decided that the MDE representative and the Board Administrator would be the point of contact with MES for potential development of a new training module. They will meet with Theresa Foye to discuss Board suggested training module ideas and budget.

The MDE representative shared that their Tidal Wetlands Program has historically offered in person trainings every two years. It was suggested this training could also be available for license Marine Contractors for continuing education credit.

Review of Current Pending License Applications

The Board discussed a new application for a license by David Itzel. Mr. Itzel in his application states that it is his intent to "...conduct services such as wood-work repair, fiberglass repair, brightwork, and/or rigging improvements on owners' boats." Since "Marine Contractor Services" as defined by Title 17-101 does not include such routine boat work/maintenance, the Board agreed and concluded that the type of work he intends to do does not require that the work be conducted by a licensed marine contractor; and that this type of work is not an activity that is covered by Title 17, even if a Marine Contractors License was obtained. It was also agreed that the type of work he documented does not meet the minimum requirements to qualify for a Marine Contractors License. The MDE representative added that if this type of work is done at a marina, the marina likely has a NPDES 'General Permit for Discharges from Marinas including Boat Yards and Yacht Basins,' which governs this type of boat work.

The MDE representative brought up the issue that MDE Compliance staff reach out occasionally to the Board when they learn of marine contractors doing work without a license. The question was asked: what tools does the Board have when marine contracting work is done without a license? This is not a new issue to the Board. Historically the Board has referred cases of contractors doing work without a license, to MDE. MDE can use their enforcement authority to take legal action, but the Board's legal counsel stated that MDE has challenges of resource allocation, and they are often not in a position, to be able to take an enforcement action in this type of scenario.

The Board's legal counsel stated that the Board's statutory authority in enforcement tends to be towards the license itself. In summary, if the marine contractor is not licensed, then the Board is limited to denying their application should they submit one in the future. However, the Board can take action on someone licensed who is in violation. Such actions could be sanctions such as suspension of an existing license or refusing to renew a license. Legal counsel stated that doing marine contracting work without a license and/or the appropriate permits would be a violation of Title 16 & 17, and could be cause for the Board to deny a Marine Contractors License, if ever applied for.

No new business topics were raised by Board Members for discussion.

ADJOURNMENT

The Board voted and approved adjournment at 11:10 AM. The next monthly Board meeting is scheduled for January 10, 2022 at 10 AM. This planned meeting will be Virtual via Google Meet. In addition, a closed working session is planned for January 7, 2022 with the opportunity to attend in person, or virtually.