

**MONTGOMERY-OTSEGO-SCHOHARIE SOLID WASTE MANAGEMENT AUTHORITY
GOVERNANCE & ETHICS COMMITTEE MEETING**

DATE: August 6, 2010
LOCATION: MOSA Administrative Complex, Howes Cave

Members Present:

John Mattas, Chair
Olga Podmajersky
Alexander Shields

Others Present:

Chris Chale via telephone

1. Opening

Chairman Mattas called the meeting to order at 8:58 a.m.

2. Approve Agenda

Chairman Mattas asked for a motion to approve the agenda. Mr. Shields so moved, Ms. Podmajersky seconded and on voice call the agenda was unanimously adopted.

3. Minutes of Prior Meeting – July 8, 2010

Chairman Mattas asked for a motion to approve the July 8, 2010 minutes. Ms. Podmajersky so moved, Mr. Shields seconded and on voice call the agenda was unanimously adopted.

4. Discussion on Violation of Code of Ethics

Chairman Mattas remarked he was not an attorney or legal scholar and would therefore be proceeding slowly and deliberately on the matter at hand. He advised he had requested Ms. Chale be available by telephone to assist and guide the committee through legal consideration of a potential ethics violation.

Chairman Mattas read from the Authority's Ethics Policy Section B "Implementation of the Code of Ethics" (2) (d), which states:

2. The function of the Governance and Ethics Committee regarding ethical conduct shall be:
 - d. If the Governance and Ethics Committee determines that a probable Code of Ethics violation has occurred involving a Board member or former Board member, or the Executive Director or former Executive Director, the Committee shall advise an officer of the Board for possible Board action and/or referral to the appointing County per 2041-b of the Public Authorities Law.

Chairman Mattas noted there had been no complaint; however, the committee had been made aware of a situation via the following communications:

1. An e-mailed memo dated July 29, 2010 from Dennis Heaton, Executive Director, to John Thayer, Chairman of the MOSA Board, notifying him of an alleged breach of confidence by an Otsego County representative of the MOSA Board to the Otsego County Solid Waste Committee by way of releasing a confidential report.
2. Chairman Mattas responded to the e-mail on July 29, 2010 asking Mr. Heaton to begin keeping a file on the incident and to keep the Governance & Ethics Committee apprised of any developments in the matter.

3. On July 30, 2010, Mr. Edward Wesnofske sent an e-mail to all members of the MOSA Board, Mr. Heaton and his secretary, which stated the following:

"To lift any shroud of mystery from today's circulation of a staff memo on the ABO report, you should know that I forwarded the draft ABO report 10 days ago for the legitimate interest of the solid waste interest legislators on the Otsego County board given the report refers to the lack of past County cooperative actions on solid waste, role of legislative participants on the MOSA Board (where Otsego County has also a rich history), ABO recommendations for County action, and the forthcoming three County meeting policy discussion."

Chairman Mattas remarked it is his opinion that a violation had occurred, specifically of Section A (1) (b), which states:

1. No Board member or employee of the Authority, whether paid or unpaid, shall:
 - b. Disclose confidential information acquired by him/her in the course of his/her official duties or use such information to further his/her personal interests.

Chairman Mattas asked the committee members for their opinions. Mr. Shields asked Ms. Chale to respond to Chairman Mattas' opinion. Ms. Chale suggested taking a recess from the meeting so that the committee could consult with her as the Authority's counsel.

Mr. Shields made a motion to recess for an attorney/client consultation with Ms. Chale, Ms. Podmajersky seconded and on voice call the recess began at 9:06 a.m.

Chairman Mattas made a motion to come out of recess, Mr. Shields seconded and on voice call the recess ended at 9:33 a.m.

Chairman Mattas called the meeting back to order at 9:34 a.m. and suggested polling the committee via roll call as to whether or not a violation had been committed. Ms. Chale suggested rather than simply calling the roll that members state their reasons as well, as no discussion had yet occurred. The recording secretary polled the committee members with the following results:

Chairman Mattas stated he believes there is a violation of the Authority's Ethics Policy; Section A (1) (b), by disclosure of confidential information which additionally has an impact on the fiduciary responsibility of the Board member. His vote is to proceed with a Proposed Finding.

Ms. Podmajersky stated she believes there has been a violation of the Authority's Ethics Policy; Section A (1) (b).

Mr. Shields stated he believes there has been a violation to the appropriate rules and statutes of the Authority's Ethics Policy and State's rules on same and stands by that at this time as part of his statement.

Chairman Mattas noted the unanimous vote in favor of continuing with the charge as follows:

It is alleged that Edward Wesnofske, member of the MOSA Board has violated the Authority's Ethics Policy Section A Code of Ethics (1) (b) in divulging confidential information meant for the MOSA Board and upon his own action has singularly decided to share this information with the public.

Chairman Mattas requested that the Board invite Mr. Wesnofske, either in person or in writing, to respond to this charge within 10 days of today's date, and stated that he would like to make that a motion. He asked if there was a second. Mr. Shields asked if the 10 days was prior to or after meeting with the Board. Chairman Mattas clarified that he would like to give Mr. Wesnofske a chance to respond to the committee's charge prior to his meeting with the Board. He noted there may be other information with regard to the issue that the committee is not aware of that Mr. Wesnofske may be able to provide either in writing or in person, and then we can make a final determination and then communicate our findings with the full Board. Mr. Shields asked Ms. Chale if that was procedurally correct. Ms. Chale advised that it was.

Chairman Mattas asked if there was a second to his motion. Mr. Shields seconded and Chairman Mattas asked if there was further discussion.

Mr. Shields remarked that he would like counsel to provide the committee with a format for notification to Mr. Wesnofske and the Board as interested parties.

Chairman Mattas asked Ms. Chale if she could do so; Ms. Chale responded that she would draft a Proposed Finding and send it to him for review and approval, which should then be sent out as an action of the committee.

Chairman Mattas asked for a voice call vote on the motion; the motion unanimously carried.

Ms. Chale suggested Chairman Mattas schedule another committee meeting prior to the Board's next meeting on August 18th. Chairman Mattas called for the next meeting to be held just prior to the Board meeting at 12:30 p.m. on August 18th.

Mr. Shields asked if Ms. Chale would be in attendance at the meeting. Ms. Chale noted Mr. Heaton had asked her to be present at the Board meeting due to discussion of the T&D contract so she was available for the Governance meeting as well. Mr. Shields asked if it was advisable for her to attend the committee meeting. Ms. Chale responded that because the committee has very little experience with ethics violation issues, she felt she would be able to assist with procedural aspects and considerations. Chairman Mattas asked Ms. Chale to attend the committee meeting.

Mr. Shields asked if at the next meeting the committee had additional questions of Ms. Chale, would the committee be able to go into Executive Session to ask them, without Mr. Wesnofske in attendance. Ms. Chale responded that in this context, it would be appropriate to attorney/client privilege to consult with the committee only. She went on to say that whether it is an attorney/client consultation or Executive Session, the committee has the ability to decide who is present; however, she suggested that no other Board member be involved if excluding Mr. Wesnofske.

5. Other Business

Chairman Mattas asked if there was other business and noted that all he had was the Governance Charter. He stated that he had received Ms. Podmajersky's comments with regard to the Governance Charter; however, he was unprepared to discuss it today and would like to review her comments and discuss the charter at a future meeting. Mr. Shields noted that he had some minor changes to the charter as well and had sent them to Chairman Mattas.

6. Closing

Mr. Shields made a motion to adjourn at 9:47 a.m., Ms. Podmajersky seconded and on voice call the meeting was adjourned.

Respectfully Submitted,

Judith Beeler, Confidential Secretary