

**MIAMI-DADE EXPRESSWAY AUTHORITY (MDX)
BOARD OF DIRECTORS MEETING**

**FRIDAY, MAY 28, 2021
9:00 AM**

**WILLIAM M. LEHMAN MDX BUILDING
3790 NW 21ST STREET
MIAMI, FLORIDA 33142**

SUMMARY MINUTES

Members Present

Jose “Pepe” Diaz, Chairman
Dennis C. Moss, Vice Chair
Luz Weinberg Treasurer
Leonard Boord
Shelly Smith Fano
Darlene M. Fernandez, P.E.
Jean Monestime

Members Absent

Stacy L. Miller, P. E., District VI Secretary
Rafael Rodon, P.E.

Staff

Javier Rodriguez, P.E., Executive Director
Carlos Zaldivar, General Counsel
Marie T. Schafer, Director of Finance/CFO
Steve Andriuk, Director of Toll Operations
Juan C. Toledo, P.E., Director of Engineering
María Luisa Navia Lobo, Board Secretary

Consultants

Kevin Hoeflich, HNTB (GEC-A)
Rick Crooks, EAC Consultants (GEC-B)
David Aron, CDM Smith

CALL TO ORDER

Board Member Weinberg welcomed the newly appointed Members and called the meeting to order.

PLEDGE OF ALLEGIANCE

Board Member Weinberg asked Mr. Rodriguez to lead in the Pledge of Allegiance.

ROLL CALL

Ms. Navia Lobo called the roll and announced that a quorum of the MDX Board was present.

Board Member Smith Fano requested a couple of minutes of personal privilege as being the longest standing member on the dais, stating she had concerns to share with Members as follows:

“My first concern that I'd like to share with you is the setting of today's agenda. I have over 12 years of experience. As a participating member of the Board. I have served in many capacities on this board over the many years and after being elected Chair of MDX. I would meet with the Executive Director and Staff and go over the agenda and all the items vet them, talk about them, discuss them, and understand them. Before we would send out or before I would even approve it to send out the Agenda to the fellow board members posted on the website, published it in the newspaper and then make it public as expressly required in our Bylaws. I hope you all have had the opportunity to review those. The section is 4.2 (A) in the bylaws and I worked on this prior to being fully amended and adopted on May 30 in 2017. It is my concern today that we are not following our Bylaws, our very own bylaws and this could be perceived as an invalid agenda. Would it be prudent to first hold our elections for offices today and subsequently our newly elected chair could meet with Javier and the Staff and have the opportunity to set and approve the agenda after going over all the items. Honestly, with the legal cases pending, why would we put ourselves in harm's way by potentially being held accountable for not following our very own bylaws. Another important section of our Bylaws 5.5(b) states committees shall review procurement of new and retention of current service providers. This historically takes place prior to the full board meeting. In my past capacity as committee chairs on many occasions, we would hold robust and healthy conversations at committee level, vetting them and determining the merits or lack thereof before sending it to the full Board. Once again, I share my concerns that we may be violating our very own Bylaws. If this agenda were to be found in violation of our own bylaws, could we possibly open the door for additional lawsuits, more litigation, where the only winners are the attorneys? I am not an attorney but what I do know MDX is under pending litigation and it is not over. I am worried about the potential consequences of the actions we might take here today. And that in the future, they could be invalidated. I am not passing judgment, I really need you to know that but I would be remiss as the longest standing member on this board, if I did not share my concerns, as I always have, especially with our new board members.

Another concern I have is the procurement items are items on this agenda today. I previously stated historically, we would go over the items as the ones that are noted in five B through five F, they would have gone through committee and they would have been vetted. We would have discussed and reviewed and understand and ask questions to the staff for each item. The specific statement on many of these items said no, this action item

has no committee history, just by virtue of that being on the state on the procurement. It's sending me a message that we usually do go through committee. What if the board moves forwards on these procurements? Can we guarantee each other and all of our stakeholders that due to our pending litigation, we are not running the risk of invalidation or unintentional consequences? We must at least discuss this. Let's ask ourselves, could this be an issue? Could this bring on more and more litigation, more lawsuits, more attorney fees and be challenged in court? Let's think about this. By not abiding by our own law bylaws. Why not look at the possibility of conducting the meeting to elect our officers and then the newly elected chair could go on and set the subsequent meeting where they had the opportunity and the time to review and approve all items on the Agenda and we would be following our bylaws. With the future of MDX still in doubt.

All of these actions and procurements could be potentially nullified. It is not what I want and I'm sure it's not what you want, either. Here it is in my multi-pronged question to you, Mr. Zaldivar, as I have many occasions over the years gone to you for legal advice as our legal counsel. Is there any scenario where we as MDX board members could be held personally liable for damages if the actions we take today are ultimately invalidated? Because if the courts uphold the legislature, what the legislature passed in 2019 dissolving MDX. Could you please tell us what unintended consequences could occur for us personally and what our personal exposure and liability to damages could.”

Board Member Diaz stated Ms. Smith Fano’s statement is turning into a procedure. He recommended moving the agenda forward and further in the agenda there will be time to answer questions.

ELECTION OF AUTHORITY OFFICERS

Mr. Zaldivar briefed Members on the process of the election of Authority Officers and explained that MDX has five elected officers three are from the Board and two are MDX employees. MDX holds annual elections and all elected officers serve for one year. He further explained traditionally, elections are held in June at the last meeting before the start of the new fiscal year. Therefore, he recommended that due to the unusual circumstances it would be prudent to make a motion that the tenure of the elected offices today would extend from May 28, which is today, through Fiscal Year 2022.

Board Member Diaz moved to have the tenure of the elected offices extend to June 30, 2022. Board Member Monestime seconded the motion. The motion passed unanimously.

Chair

Mr. Zaldivar opened the nominations for the office of Chair.

Board Member Moss moved to nominate Board Member Diaz for the office of Chair. Board Member Weinberg and Board Member Fernandez seconded the nomination. Board Member Diaz accepted the nomination.

Mr. Zaldivar closed the nominations. Board Member Diaz was elected Chair by Acclamation.

Vice Chair

Mr. Zaldivar opened the nominations for the office of Vice Chair.

Chairman Diaz nominated Board Member Moss for the office of Vice Chair. Board Member Monestime seconded the nomination. Board Member Moss accepted the nomination.

Mr. Zaldivar closed the nominations. Board Member Moss was elected Vice Chair by Acclamation.

Treasurer

Mr. Zaldivar opened the nominations for the office of Treasurer.

Board Member Monestime nominated to retain Treasurer Weinberg. Chairman Diaz seconded the nomination. Ms. Weinberg accepted the nomination.

Ms. Weinberg was retained as Treasurer by Acclamation.

For the record, officers will serve from May 28, 2021 through June 30, 2022.

Chairman Diaz thanked Commissioner Moss and all his colleagues for nominating him as Chair. He further stated there's a lot that needs to be done on this board that has had a two year hiatus. He thanked the people that kept it going as best as possible with the situation.

APPROVAL OF AGENDA

Mr. Rodriguez recommended deferring Agenda item V. M Transfer of NW 14th Street from FDOT to MDX Approval of Supplement No. 4 to the Transfer Agreement.

Board Member Moss moved to approve the Agenda as amended. Board Member Weinberg seconded the motion. The Agenda was unanimously approved.

DECLARATIONS OF VOTING CONFLICTS

No conflicts were declared.

CITIZEN COMMENT

Mr. Gonzalo Sanabria, former MDX Board Member, addressed the Board.

EXECUTIVE DIRECTOR'S REPORT

Mr. Rodriguez welcomed Members and introduced MDX senior staff; Juan Toledo, Director of Engineering, Marie Schafer, Director of Finance/CFO, Steve Andriuk, Director of Toll Operations and Carlos Zaldivar, General Counsel. He further stated that MDX has 30 employees and two General Engineering Consultants, EAC and HNTB.

Chairman Diaz asked all Members present to introduce themselves as there are five new Board of County Commission appointments. Board Members introduced themselves at this time

Mr. Rodriguez informed Members that the MDX Board of Directors held its last meeting on September 24, 2019. He briefed Members on the Agency's status, financial condition, and operations and management of the MDX System since the last meeting.

He further explained that during the period of uncertainty, the Authority focused on operating and maintaining the expressway system. He stated that the focus has been to ensure public safety, revenue collection and financial reporting. The stipulated order(s) granted by Judge Cooper allowed MDX to make payments to contractors, consultants, vendors and employees. It also allowed us the ability to procure goods and services that support the operations and maintenance of the expressway system.

GENERAL COUNSEL'S REPORT

Mr. Zaldivar asked Mr. Eugene Stearns, outside counsel to update Members on the status of the lawsuit brought based on Home Rule.

Mr. Stearns briefed Members on the 1956 amendment to the Dade County Constitution to create a unique government in Dade County. Every voter in Florida was asked to vote as to whether Dade County could have something called Home Rule. The constitution allowed the people to form a new County government that would be unique in the State of Florida, because the County government would have the absolute unequivocal power to conduct business that before was conducted in Tallahassee. He added that what it meant was, the legislature could no longer adopt a local bills. A local bill is an act of the legislature that applies only in a single County.

Mr. Stearns further stated that by eighth of June, MDX had to make the decision to file an what is called a Petition for Writ of Certiorari to the Florida Supreme Court on the standing issue.

Mr. Stearns advised that he was in continuing communication with the county attorney's office. Mr. Oren Rosenthal has been by our side every step along the way in what is called an amicus relationship. Stearns added that in addition to being colleagues on this matter, he and Rosenthal have been friends and have work together on a variety of matters of public interest. Stearns stated that unless he was told otherwise, he was going to file a petition. Stearns opined that the petition forces the state to take a position of what are they going to do with the mess they've created.

Their new argument is MDX spending money GMX's money. He advised where the real money has been spent, MDX's bond rating. The failure to be able to run an agency has cost this agency and it has cost the people of Miami Dade County untold millions and millions of dollars because of political games, and because of a lack of regard for the Constitution of this State.

Chairman Diaz stated that we're here to protect the County and protect the Charter. Chairman Diaz added that he thought his colleagues feel the same way on this board. Chairman Diaz advised that there was a decision made in the prior board that was established to let you (Stearns) go all the way to the Supreme Court, and Chairman Diaz would want to respect that Board's decisions unless his colleagues feel different. Chairman Diaz directed Stearns to keep going and may God have great breath blowing behind your sail.

TREASURER'S REPORT

Board Member Weinberg informed Members that MDX bylaws dictate providing a monthly Treasurer's Report. Ms. Weinberg introduced Marie Schafer, CFO, who summarized the Treasurer's report for Fiscal Year 2020 and the current Fiscal Year 2021.

Ms. Schafer informed Members that MDX is considered a standalone enterprise fund as MDX receive any taxes, sales tax or grant money. MDX is a user fee organization and derives revenue from tolls, 97% of revenue actually comes from tolls. MDX does not receive any support from any other organization and MDX issues debt for construction. MDX currently has \$1.3 billion of debt outstanding. MDX has a trust indenture and the trust indenture says that MDX must have a 1.2 coverage debt coverage ratio.

Ms. Schafer referred to the chart in the report illustrating the last four months of Fiscal Year 2019, March through June, and at this year, from March to June Fiscal Year 2021. She commented that MDX was really back to pre COVID numbers. MDX does have some challenges, MDX has a very good strong financial position, the credit ratings are BBB+, A3 and A all with a negative outlook that is mainly due to the fact of governance.

Ms. Schafer entertained questions from Members.

Board Member Smith Fano asked to return to her previous question. Board Member Smith Fano asked if there any scenario where, we, as MDX board members could be held personally liable for damages if the actions we're taking today are ultimately invalidated?

Mr. Zaldivar responded, No. If you're acting in the scope of being a director of MDX then MDX will be responsible for anything that anybody whatever tried to do against you. Chairman Diaz recommended those questions might be better to ask directly to legal counsel separately.

REGULAR AGENDA

Mr. Zaldivar read Agenda Item V.B thru F on the record.

B) MDX Procurement/Contract Nos.: RFQ-17-04 - Approval of Contract Extension for two (2) Years for each Contract;

- Legal Services Support – Eminent Domain; RFQ-17-04 (A) Weiss Serota Helfman Cole and Bierman, P.L.
- Legal Services Support – Public Procurement/Contracts; RFQ-17-04 (B) with De Leon & De Leon, P.A.
- Legal Services Support –Bond/Disclosure & Financial Services RFQ-17-04(C) with Squire Patton Boggs (US) LLP / D. Seaton and Associates, P.A.

C) MDX Procurement/Contract No.: RFP-15-05, Investment Advisory Services

- Extend the term of the agreement with Hilltop Securities Asset Management, LLC for Investment Advisory Services.

D) MDX Procurement/Contract No.: MDX-21-07, Cooperative Purchase Agreement (CPA) on Central Texas Regional Mobility Authority Agreement for Financial Advisory Services (\$200,000/Fiscal Year)

- Approval of CPA Execution.

E) MDX Procurement/Contract No.: RFP-16-03 Traffic and Revenue Consulting Services (\$1,000,000)

- Approval of Contract Renewal for two (2) Years

F) MDX Procurement/Contract No.: MDX-16-04 Manual Image Review Processing Services

- Approval of Contract Renewal for two (2) years

Vice Chairman Moss moved to approve agenda items V.B thru F. Board Member Weinberg seconded the motion. Board member Smith Fano opposed the motion. The motion was approved.

Board Member Monestime asked if most of the items on the agenda were previously on the agenda.

Mr. Rodriguez informed that many of the items were contemplated by the previous board and the items were going to be on the Agenda when the board stopped meeting. He added that the major projects here that you'll hear Director Toledo speak to, as far as wrong way safety program and the major interchange at a SR836 and the Turnpike, were previously on Agendas. The board just didn't meet and that's why they're back on the agenda.

Mr. Toledo presented the following items individually and explained that every project that is on the Agenda for approval to advertise or get into contract has been evaluated and coordinated with Ms. Schafer, CFO and to make sure that all these projects and contracts can be fully funded with our current cash flow and traffic projections.

G) MDX Procurement/Contract No.: ITB-21-08; Fiber Optic Repair Services (\$520,000)

- Approval to Advertise

Mr. Toledo briefed Member on the Fiber Optic Repair Services Project. He explained that the MDX system has fiber optic cable that runs the entire system. This contract is for a contract service for maintenance and repairs. It's a five year contract estimated at \$420,000. Mr. Toledo added that the first year is going to cover a lot of known necessary upgrades and repairs to the system. There will be \$50,000 a year for the next four years after just for routine maintenance or any repairs that come up during the life of the contract. Fiber Optic is the life line of our system not only handles all the toll transactions, but it also handles all the traffic management cameras, all the traffic incident devices that we have to be able to properly monitor traffic conditions on our system. MDX is proposing a 10% small or local business participation combined. MDX by

policy has a 10% minimum goal overall, we always strive to achieve a higher goal. This is an invitation to bid, a low bid contract.

Vice Chair Moss moved to approve the advertisement. Board Member Weinberg seconded the motion. The motion was unanimously approved.

H) MDX Procurement/Contract No.: ITB-21-07; MDX Work Program No. 40045.060
Construction Services for the Wrong Way Safety Program (\$2,718,710)

- Approval to Advertise

Mr. Toledo introduced the item and explained the project provides wrong-way countermeasures at 25 locations system-wide to prevent wrong-way access onto the MDX System. A pilot program was developed several years ago, proven to be very successful. The locations identified are high priority, the project includes all construction services including all labor, materials, equipment, traffic control, and incidentals necessary for the installation of oversized signs, solar powered Flashing LED Wrong Way signs activated by radar which also send verification photos of the wrong way vehicle to the TMC, Wet Weather Pavement Markings and rows of Red RPM's across the entrance area of the off-ramps.

Board Weinberg moved to approve the advertisement for the Wrong-Way Safety Program (WWSP). Board Member Fernandez seconded the motion. The motion was unanimously approved.

I) MDX Procurement/Contract No.: RFQ-21-01; MDX Work Program No. 40045.051
Construction Engineering and Inspection (CE&I) Services for the MDX Wrong Way Safety Program (\$466,000)

- Approval to Advertise

Mr. Toledo introduced the item and explained the Request for Qualifications (RFQ) to provide CE&I services and contract administration for the MDX Wrong Way Safety Program (WWSP) project. The work for the project includes the installation of signs, pavement markings and systems for detection, alerting and reporting wrong way traffic entering the MDX system at twenty-five (25) locations system-wide. Board Member Weinberg accepted being the Technical Evaluation Committee (TEC) Board Member Oversight.

Board Member Weinberg moved to approve the advertisement of the RFQ for the CE&I and TEC composition. Vice Chair Moss seconded the motion. The motion was unanimously approved.

J) MDX Procurement/Contract No.: RFP-22-01; MDX Work Program No. 83634.030 Design-Build Services for SR 836 New HEFT Ramp Connections (\$63,461,900)

- Approval to Advertise

Mr. Toledo introduced the item and explained the Request for Proposals (RFP) for the selection of a qualified Design-Build Firm to provide design and construction services for the SR 836/Homestead Extension of Florida's Turnpike (HEFT) Ramp Connection project.

This is a \$63 million contract. It also provides new ramps to and from the park and ride the dolphin park and ride to provide easy better access to bus services coming to and from the west as well.

Staff recommends a minimum of fifteen percent (15%) Small Business Participation Requirement and a minimum of fifteen percent (15%) MDX certified Local Businesses (LB) requirement for this Contract. Chairman Diaz accepted to be the TEC Board Member Oversight for the project.

Board Member Weinberg moved to approve the advertisement of the RFP, TEC composition and proposal evaluation criteria. Board Member Monestime seconded the motion. The motion was unanimously approved.

K) MDX Procurement/Contract No.: RFQ-22-01; MDX Work Program No. 83634.050 Construction Engineering and Inspection (CE&I) Services for MDX Project No. 83634 SR 836 New HEFT Ramp Connections (\$4,768,600)

- Approval to Advertise

Mr. Toledo introduced the item and explained the item is for the advertisement of a Request for Qualifications (RFQ) for the selection of a qualified Consultant to provide CE&I services and contract administration for the SR 836 New HEFT Ramp Connection project.

The engineer estimate is \$4,768,600 and staff recommends a minimum of fifteen percent (15%) Small Business Participation Requirement and a minimum of fifteen percent (15%) MDX certified Local Businesses (LB) requirement for this Contract. Chairman Diaz accepted to be the TEC Board Member Oversight for the project.

Board member Weinberg moved to approve the advertisement of the RFQ for CE&I Service, TEC Composition and Evaluation Criteria. Vice Chair Moss seconded the motion. The motion was unanimously approved.

L) MDX Procurement/Contract No.: ITB-21-09; Traffic Management Center Staffing Services

- Approval to Advertise

Procurement of this contract will allow MDX to properly staff the MDX Transportation Management Center with qualified personnel. The TMC staff continuously monitor the MDX roadways for accidents and unsafe situations and dispatch appropriate responders, such as MDX Road Rangers, to mitigate the impacts caused by accidents, motorists in distress and/or unsafe conditions. These services help reduce the overall duration of impacts to the MDX traffic and therefore maintains efficient traffic flow and reduces the potential for secondary accidents.

Staff recommends a minimum fifteen percent (15%) Small Business Participation and a minimum of fifteen (15%) MDX certified Local Businesses (LB) requirement for this Contract.

Board Member Weinberg moved to approve the advertisement of an ITB to hire a qualified firm to provide staff for the MDX Traffic Management Center. Board member Moss seconded the motion. The motion was unanimously approved.

INFORMATIONAL ITEM

A) Procurement Report

The procurement report is provided with every Board agenda to provide information on contracts and procurements.

Mr. Rodriguez acknowledged MDX's previous Board Members. He thanked them for their support and for their steadfast oversight of this agency and what they did for us, He apologize that he missed it in his report, but he didn't want the meeting to end without recognizing them.

CHAIR'S COMMENTS

Chairman Diaz stated that the MDX Board was created to serve the people of Miami-Dade County. He requested that meetings stream live on Miami-Dade cable immediately starting with the next scheduled meeting.

ANNOUNCEMENTS

- Board Meeting, TBD William M. Lehman MDX Building – Board Room

A schedule of meeting dates will be distributed as soon as the Chairman sets the dates.

ADJOURNMENT

The Board Meeting was adjourned by Vice Chairman Moss. Seconded by the Chairman.

Summary Minutes prepared by Maria Luisa Navia Lobo, Board Secretary.