



**THE ALABAMA DRYCLEANING
ENVIRONMENTAL RESPONSE TRUST FUND BOARD**

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**MINUTES
Board Meeting
November 30, 2021**

The Alabama Drycleaning Environmental Trust Fund Advisory Board met on Tuesday, November 30, 2021, at the Board's office located at 2777 Zelda Road, Montgomery, Alabama, to conduct regular business of the Board. The following members were in attendance: Mr. Jason Windham (Board Chair), Mr. Steve McKinnon (Board Vice Chair), Mr. Jim Massey, III (member) and Mr. Cary Spiegel (member). Board members absent were Mr. Thomas Bass (member), Mr. Quincey Banks (member) and Mr. Steve Taylor (member). Also participating was Mr. Keith Warren (Executive Director), Ms. Bonnie Temple (non-voting member-Senate Confirmation pending), Mr. Robert Tambling (Board Legal Counsel), Mrs. Ashley Cousins (Consulting Engineer), Ms. Ashley Powell and Mr. Richard Hamner with ADEM, Ms. Nichelle Norris with the Revenue Department, and Ms. Renee' Reames (recording secretary).

Public notice of this regular business meeting was published on the Secretary of State's web site, www.sos.alabama.gov, in accordance with the Alabama Open Meetings Act, and advertised on the Board's web site at www.drycleaningtrustfund.alabama.gov.

CALL TO ORDER AND ROLL CALL

Chairman Windham called the meeting to order at 10:15 a.m. and Mr. Warren called Board roll, reporting that a quorum of the members was present to conduct business of the Board. Chairman Windham welcomed guests from ADEM and Revenue Department, along with Ms. Bonnie Temple, new member of the Board from the Environmental Group sector, whose appointment was pending Senate Confirmation.

APPROVAL OF MINUTES

The Board reviewed the minutes from August 19, 2021 regular meeting. A copy of the minutes was provided to the members prior to the meeting for their review. Mr. Spiegel made a motion to approve the August meeting minutes as presented. The motion was seconded by Mr. Massey and unanimously approved by the Board.

ADEM'S REPORT

Ms. Ashley Powell, with ADEM, reviewed the DERTF list of active participants in the Fund, along with a list of delinquent accounts and list of prioritizations of active accounts. She indicated that the prioritizations had not changed since the last meeting held in August. She reported that ADEM was waiting on additional information regarding the Saraland site, which was discussed at the August Board meeting.

REVENUE DEPARTMENT'S REPORT

Ms. Nichelle Norris, with the Department of Revenue, reported on the participating accounts and the status of payments into the Fund, along with a list of delinquent accounts. She reported an increased cash balance of \$160,477.35 as of October 26, 2021.

Mr. Warren reported that the delinquent accounts letter had been mailed with a December response date regarding continued participation in the Fund.

CONSULTING ENGINEER'S REPORT

Mrs. Cousins reviewed quarterly contributions into the Fund, for a comparative period of the second quarter of FY 2016 through the first quarter of FY 2022, noting a slight increase in FY 2021 over FY 2020 revenue, but not as high as FY 2019.

Mr. McKinnon made a motion to table until later in the meeting the discussion regarding the Board-approved quarterly expenditure ceiling. The motion was seconded by Mr. Massey and unanimously approved by the Board.

Mrs. Cousins presented a historical record of funding approved by the Board that reflected a total amount in payment requests and approved cost proposals per site. The Payment Requests approved by the Board for all sites totaled \$3,839,573.39.

Mrs. Cousins also reported on the Fund's operating account cash balance, with a projected balance of \$47,558 for fourth quarter of FY 2021, which included the outstanding payments to ADEM and Revenue. She also reported that assuming 100% funding of all outstanding Cost Proposal obligations, the Fund had a projected deficit of \$29,335 overall. A summary of expenses was also provided to the members. Mrs. Cousins reported an Investment Account balance of \$1,526,152 as of September 30, 2021, noting that \$150,000 was transferred in August from the Investment Account to the Operating Account. The Board discussed the Fund approaching the \$1 million minimum required for the account to function and the likelihood of the operations of the Board to be halted until the Fund balance was built up.

Mrs. Cousins presented the Cost Proposals report for the Board's review and approval. She presented a Cost Proposal recommendation for four (4) sites with an adjustment total cost of \$9,790.53. She reported on the addendum submitted (for CP 27) that was approximately \$25,000 difference between the approved and allowed quarterly ceiling. The Board agreed that the difference would revert to the Fund for future use as needed and not rolled over to the next quarter funds. Mr. Spiegel made the motion to approve the Cost Proposals as recommended by Mrs. Cousins. The motion was seconded by Mr. Massey and was unanimously approved by the Board.

Mrs. Cousins also presented the Payment Requests Report. She recommended an adjustment Payment Request amount for three (3) sites totaling \$21,356.24. She reported that this was a correction to the calculation error on the printed report showing \$16,093.97. Mr. McKinnon made a motion to approve the Payment Request as recommended by Mrs. Cousins. The motion was seconded by Mr. Massey and was unanimously approved by the Board.

Mrs. Cousins recommended three (3) extensions. Mr. Spiegel made a motion to approve the extension of the cost proposals as presented by Mrs. Cousins. The motion was seconded by Mr. McKinnon and approved by the Board, with Mr. Massey abstaining from voting.

2022 QUARTERLY EXPENDITURE LIMIT

The Boards discussed setting FY 2022 quarterly ceiling limit for expenditures. Mr. Massey made the motion to authorize expenditures based on 75% of the annual income from prior year and to adjust the ceiling limit quarterly if necessary. The motion was seconded by Mr. McKinnon and unanimously approved by the Board.

AG OPINION UPDATE

Mr. Warren updated the Board on discussions about seeking an Opinion from the Attorney General's office, for future reference, about limitations and suspension of the operations of the Board until the Investment Fund is built back up. He explained that Mr. Tambling had looked further into the matter and the Board was authorized to make negotiations with third-party vendors about expenses and, should the Board reach the \$1 million threshold, the Attorney General's office could provide guidance, when necessary, without written opinion. He explained that the termination of the Fund would fall to the Legislature and emergency issues on environmental matters would be managed by ADEM. Mr. Tambling recommended that the Board seek counsel of the AG's office without requesting a written Opinion, and the Board agreed.

2022 PROPOSED LEGISLATION

Mr. Warren presented a draft of the proposed legislation and discussed presenting the proposed legislation during the 2022 Legislative Session, noting changes in the document to significant effective dates, clarifying that mandatory participation in the Fund was a considered a fresh start and there was no catch-up requirement to pay funds in arrears, and further strategy would be discussed about board members not all currently participating in the Fund. Mr. Warren reported that he would draft a letter for the Board's approval addressed to current and former Fund members about the need for legislative changes. Mr. McKinnon made the motion to proceed with presenting during the 2022 Legislative Session the proposed legislative changes as discussed. The motion was seconded by Mr. Spiegel and unanimously approved by the Board.

BOARD TERMS AND RECOMMENDATIONS

Mr. Spiegel reported that he was available to participate on the Board and attend the meetings virtually. The Board discussed the designation of current members to fill the specific appointment sectors and discussed recommending new members' appointment to the other sectors. Mr. Warren reminded the Board that Ms. Temple had been appointed by the Governor, but she had not yet been confirmed by the Senate to officially begin her role. Mr. Warren reminded the members to submit a copy of their resume and letters addressed to the Governor about their continued interest to serve on the Board.

ADEM PROPOSED RULES AND PUBLIC HEARING

Mr. Warren presented a copy of ADEM proposed rules regarding changes in Hazardous Waste. It was the consensus of the Board that the Board had no comments regarding the proposed rules.

APPROVAL OF RFP SPECIFICATIONS FOR CONSULTING ENGINEER

Mr. Warren reported that the Board was advised by the Contract Review Attorney, Jason Paulk, that the amendments to Ms. Cousins' contract were not feasible, so the Board currently had an

emergency contract with Ms. Cousins for Consulting Engineering services. Mr. Warren presented specifications for RFP Engineering Services for the Board's approval. Mr. McKinnon made the motion to approve the specifications as presented. The motion was seconded by Mr. Spiegel and unanimously approved by the Board.

2022 PROPOSED BOARD MEETING CALENDAR

Mr. Warren presented for the Board's approval a list of 2022 dates for the Board to conduct business meetings. Mr. Spiegel made the motion to approve the following 2022 Board meeting dates: February 24th, May 5th, August 25th, and November 10, 2022. The motion was seconded by Mr. McKinnon and unanimously approved by the Board.

ELECTION OF BOARD OFFICERS

Chairman Windham reported that the annual election of Board officers was due. Mr. Spiegel made the motion that the Board officers remain the same with Mr. Windham as Board Chair and Mr. McKinnon as Board Vice Chair. The motion was seconded by Mr. McKinnon and unanimously approved by the Board.

ANNOUNCEMENTS

Chairman Windham reminded the members that the next regular meeting of the Board was scheduled February 24, 2022, at 10:00 a.m.

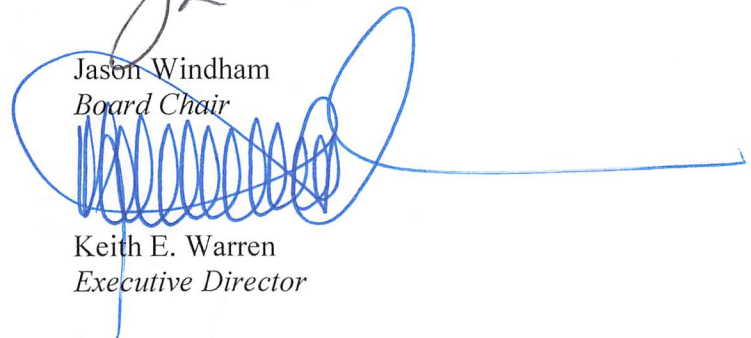
ADJOURNMENT

There being no further business of the Board, Mr. McKinnon made a motion to adjourn the meeting. The motion was seconded by Mr. Massey and unanimously approved by the Board. Chairman Windham adjourned the meeting at 11:59 a.m.

Respectfully Submitted,



Jason Windham
Board Chair



Keith E. Warren
Executive Director

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