

RSWA BOARD OF DIRECTORS
Minutes of Regular Meeting
February 25, 2002

A regular meeting of the Rivanna Solid Waste Authority (RSWA) Board of Directors was held on Monday, February 25, 2002, at 3:24 p.m., in the Conference Room, Administration Building, 200 Franklin Street, Charlottesville, Virginia.

Board members present: Mr. Richard Collins, presiding, Mr. Mark Graham, Mrs. Judith Mueller, Mr. Robert Tucker, and Mr. Gary O'Connell

Authority staff present: Mr. Lawrence Tropea, Mr. Cole Hendrix, Mr. Wayne Stephens, Mr. Lonnie Wood, Mr. Bruce Edmonds, and Ms. Mary Knowles.

Also present: Mr. Kurt Krueger, RSWA Attorney, members of the public and media representatives.

1.0 Call To Order

The regular meeting of the RSWA Board of Directors was called to order by Mr. Richard Collins, Chairman, on Monday, February 25, 2002, at 3:24 p.m., and a quorum was present.

2.0 Minutes Of Previous Meeting

Upon a motion by Mr. Tucker, and seconded by Mrs. Mueller, the Board of Directors voted to approve the minutes of the regular Board meeting held on Monday, January 28, 2002. All members voted aye.

3.0 Executive Director's Report

Mr. Tropea updated the Board on the following environmental activities at the Ivy Landfill site:

Cell No. 2 (unlined) Closure – Mr. Tropea stated that RSWA has completed grading and placement of the intermediate cover. He further stated that the GCL material and the passive landfill gas system have been ordered and are ready for shipment. Mr. Tropea added that RSWA is awaiting DEQ approvals for both the closure plan and for the gas control system before proceeding further with the closure. He hopes to receive those approvals in the very near future.

Mr. Tropea informed the Board that RSWA is under an April 1, 2002 Consent Order deadline for the closure of Cell No. 2 (unlined). He stated that despite RSWA's best efforts, the Authority would not be able to meet that deadline. Mr. Tropea further stated that RSWA would officially advise DEQ of that fact sometime in the next week

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or so. He added that until RSWA receives final approvals from DEQ, RSWA cannot proceed with the closure. He stated that the circumstances contributing to RSWA's inability to meet the April 1, 2002 deadline would be outlined in the letter to DEQ. Mr. Tropea reported that he was revising the agenda for today's meeting and pulling the item for the selection of a new ACM contractor. He stated that as indicated in the Board packet, RSWA did advertise and received three responses to the RFP. He further stated that a review committee had not yet been appointed to review the responses and bring a recommendation to the Executive Director. Mr. Tropea proposed that this matter be deferred until a future Board meeting.

Recycling Report -- Mr. Tropea pointed out that he and Bruce Edmunds attended a training meeting sponsored by the DEQ, on filling out the required annual recycling report. He stated that RSWA would accept the responsibility for completing the report for the City, the County, the Authority and other recycling entities in the service area. He added that there is an April 30, 2002 reporting deadline, and it would be met.

Mr. Tropea informed the Board that a report would be made available to them once the recycling numbers have been calculated, but he felt that the State mandated 25 percent recycling rate would be met. Mr. Tropea stated that during the DEQ meeting, there was some discussion regarding the General Assembly considering increasing the mandatory recycling rate from 25 percent to 40 percent. He further stated that there were a number people at the meeting, including him, who felt that there should be associated funding to support City and County efforts to meet any new 40 percent recycling rate.

Mrs. Mueller inquired as to how the RSWA would secure information from BFI on the amount of trash hauled to Zion Crossroads from the County which must be captured in the calculation. Mr. Tropea stated that we would be contacting BFI, as well as others, and we can only do our best to obtain the information. He noted that depending upon RSWA's experience, we may be asking the City and County later this year to make recycling reporting mandatory as part of the business license process.

Mr. Collins asked Mr. Tropea what he felt DEQ's response would be to RSWA not being able to meet the April 1, 2002 Cell #2 (unlined) closure deadline and if there was a possibility of any penalties being imposed on the Authority. Mr. Tropea responded that DEQ understands that RSWA has made substantial progress, and they realize that we need their approval before we can proceed further with the closure. In response to Mr. Collins follow-up question, Mr. Tropea further stated that a fine might be enacted against RSWA but he would not want to predict what action DEQ might undertake.

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Mr. O'Connell inquired if there were any issues besides time constraints that prevented RSWA from meeting the deadline. Mr. Tropea responded that RSWA actions have been well planned and well executed. He added that Faulconer Construction Company did a great job in placing the intermediate cover, and we were fortunate the weather cooperated. Mr. Tropea stated that the only issue RSWA still has to resolve is where we will obtain the final cover material. He further stated that it appears that RSWA will be able to source some of that material from the existing on-site borrow pit. Mr. Tropea informed the Board that Mr. Hendrix has been working on alternatives, and RSWA hopes to make a recommendation to the Board at the next meeting on the source for the remainder of the final cover material.

In response to a question from Mr. Collins, Mr. Tropea stated that there is one potential new borrow pit on-site, plus other off-site options.

4.0 Consent Agenda

Mr. Collins asked if there were any items that the Board members would like to discuss regarding the Consent Agenda.

- a) Staff Report on Finance
- b) Material Utilization Center Manager's Report
- c) McIntire Road Recycling Center/Paper Sort Recycling Operations Manager's Report
- d) Staff Report on Employee Safety
- e) VEPGA Cooperative Purchasing Agreement

In regards to Item 4e), VEPGA Cooperative Purchasing Agreement, the following Resolution was submitted for the Board's approval:

“WHEREAS, the VML/VACo Virginia Power Steering Committee (the “Committee”), composed of representatives of the Rivanna Solid Waste Authority and other local governments and political subdivisions of the Commonwealth, has for over several decades negotiated on behalf of such governmental units a standard form contract for their purchase of electricity supply and delivery service from Virginia Electric and Power Company (“Virginia Power”) as a sole source provider; and,

WHEREAS, political subdivisions of the Commonwealth of Virginia are authorized under Virginia law to exercise jointly powers that they otherwise are authorized to exercise independently, and the terms and conditions of such authorization are currently set forth in Sections 15.2-1300, et seq. of the Virginia Code (the “Joint Powers Act”); and,

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WHEREAS, the Virginia Electric Utility Restructuring Act (the “Restructuring Act”) further authorizes municipalities and other political subdivisions in the Commonwealth to aggregate their electricity supply requirements for the purpose of their joint purchase of such requirements from licensed suppliers, and the Restructuring Act provides that such aggregation shall not require licensure; and,

WHEREAS, the Virginia Public Procurement Act (the “Procurement Act”) exempts from its competitive sealed bidding and competitive negotiation requirements (the “Requirements”) the joint procurement by public bodies, utilizing competitive principles, of electric utility services purchased through member associations under the conditions set forth in the Procurement Act; and,

WHEREAS, the Committee recommends that the aggregation and procurement of electric supply, electric delivery, and other energy-related services (“Energy Services”) be effectuated as provided in the Joint Powers Association Agreement, a copy of which is attached to and made part of this Resolution (the “Joint Powers Agreement”), in accordance with applicable provisions of the Procurement Act, such as the utilization of competitive principles pursuant to an exemption from the Requirements; and,

WHEREAS, the Committee also recommends that the other services provided by the Committee to its members be effectuated as provided in the Joint Powers Agreement, with such services consisting of (i) assistance in implementing standard form contracts for the purpose of services from incumbent electricity utilities, (ii) education of members regarding electricity procurement issues, (iii) monitoring of legal and regulatory developments affecting the provision of electricity service to local governments, and (iv) hiring of consultants and legal counsel to assist in its provisions of the foregoing services (“Steering Committee Services”).

WHEREAS, it appearing to the Board of Directors of the Rivanna Solid Waste Authority that the joint procurements of the Energy Services pursuant to the Joint Powers Agreement and the provision of Steering Committee Services pursuant to the Joint Powers Agreement is otherwise in the best interests of the Rivanna Solid Waste Authority.

NOW, THEREFORE, BE IT HEREBY RESOLVED that:

- (1) Competitive sealed bidding and competitive negotiation for the procurement of Energy Services are not fiscally advantageous to the public because the procurement process for Energy Services must be flexible enough to respond to quickly changing

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market conditions in which energy prices can fluctuate considerably on a daily or even hourly basis.

(2) The aggregation and joint procurement of the Energy Services pursuant to the Joint Powers Agreement is hereby approved.

(3) The provision of Steering Committee Services pursuant to the Joint Powers Agreement is hereby approved.

(4) The Joint Powers Agreement and the performance of the terms and conditions thereof on behalf of the Rivanna Solid Waste Authority are hereby authorized and approved.

(5) The Executive Director is hereby authorized and directed to execute and deliver the Joint Powers Agreement on behalf of the Rivanna Solid Waste Authority in substantially the form presented to this meeting.

(6) The payment obligations of the Rivanna Solid Waste Authority pursuant to the provisions hereof and the Joint Powers Agreement shall be subject to the annual approval of funds thereof in its budget by the Rivanna Solid Waste Authority Board of Directors.

(7) This Resolution shall take effect immediately upon its adoption or passage.”

Upon a motion by Mr. Tucker, and seconded by Mr. Graham, the Board of Directors voted to approve Items 4a), b), c), d), and e) of the Consent Agenda. All members voted aye.

5.0 Other Business

In regards to Item 5a1), the Draft Minutes of the February 12, 2002 CAC Meeting were accepted. There were no actions required by the Board.

In regards to Item 5b), Approval of \$71,000 Letter of Credit for Water Protection Bond, Mr. Wood stated that this is a standard letter of credit required by the County related to the closure activities of Cell No. 2 (unlined) and the following Resolution was submitted for Board approval:

“RESOLVED, that the Rivanna Solid Waste Authority (the “Authority”) obtain from Bank of America, N.A. (the “Bank”) a letter of credit in an amount not to exceed \$71,000 for the benefit of the County of Albemarle,

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Virginia satisfaction of a Water Protection Bond requirement related to the Closure of Cell 2; and,

RESOLVED, that in connection with obtaining the letter of credit, the Authority execute, and deliver to the Bank, a letter of credit application and a reimbursement agreement; and,

RESOLVED, that the Chairman of the Board, the Executive Director, the Secretary and the Assistant Secretary are each hereby authorized in the name of and on behalf of the Authority to execute and deliver the letter of credit application and reimbursement agreement and such other security documents and other documents and instruments and to take such other and further actions as may be in any way necessary or appropriate to obtain the letter of credit and to effectuate the foregoing resolutions and to carry out the purposes thereof, and that the taking of any such action and the execution by such individuals of any such additional documents or instruments shall conclusively evidence the due authorization thereof by the Authority.”

Upon a motion by Mr. O’Connell, and seconded by Mr. Tucker, the Board of Directors voted to approve the Resolution to complete the application process for the \$71,000 Letter of Credit for Water Protection Bond. All members voted aye.

In regards to Item 5c), Update to Procurement Policy / Purchasing Manual, the following Resolution was submitted for the Board’s approval:

“RESOLVED, that the Executive Director, in addition to such authority and duties given to him pursuant to the Bylaws or by this Board, is hereby authorized to take the following actions in connection with the fulfillment of his duties to and for the Authority:

(1) to sign, execute, or otherwise bind the Authority with respect to any instrument, contract, or other agreement provided such instrument, contract, or other agreement has been specifically approved by the Board of Directors (the “Board”);

(2) to sign, execute, or otherwise bind the Authority with respect to any instrument, contract, or other agreement provided the Authority’s obligation under such instrument, contract, or other agreement does not exceed Fifty Thousand and 00/100 Dollars (\$50,000); and,

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(3) to sign or execute all checks in the name of the Authority, initiate

wire transfers, or otherwise transfer funds of the Authority.

RESOLVED, that the Director of Finance and Administration, in addition to such authority and duties as the Board or the Executive Director may from time to time designate, is hereby authorized to take the following actions in connection with the fulfillment of his duties to and for the Authority:

- (1) to sign, execute, or otherwise bind the Authority with respect to any instrument, contract or other agreement provided such instrument, contract, or other agreement has been specifically approved by the Board;
- (2) to sign, execute, or otherwise bind the Authority with respect to any instrument, contract, or other agreement provided the Authority's obligation under such instrument, contract, or other agreement does not exceed Fifty Thousand and 00/100 Dollars (\$50,000); and,
- (3) to sign or execute all checks in the name of the Authority, initiate wire transfers, or otherwise transfer funds of the Authority.

RESOLVED, that the Authority's Purchasing Manual, last revised effective March 9, 1999, is hereby revised to amend the Small Purchase Procedure (paragraph 8) and to update the cross-references to the Virginia Public Procurement Act, as amended, all as more particularly set forth in the revised Purchasing Manual distributed to the Board."

Upon a motion by Mr. Tucker, seconded by Mrs. Mueller, the Board of Directors voted to approve the foregoing Resolutions to update the Procurement Policy / Purchasing Manual. All members voted aye.

In regards to Item 5d), Assessment of Corrective Action (ACM) / Competitive Negotiation of Contract, Mr. Tropea confirmed that this matter would be deferred until a future Board meeting.

6.0 Other Items From Board/Staff Not On Agenda

There were no other items from the Board or the Staff.

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7.0 Items From The Public Continued February 25, 2002

7.0 Items From The Public

Mr. Ed Strange, Ivy, stated that he still has concerns with the elimination of the first

“Items from the Public” segment from the Agenda. He felt that the public loses an opportunity to provide input on issues before the Board takes final action.

Mr. Strange inquired as to the location of the potential new borrow area on-site that was discussed earlier in the meeting. Mr. Hendrix responded that it was situated near the northern edge of the former landfill.

Mr. Strange expressed disappointment that the attorney fees are not broken down in the Financial Report.

As a follow-up to last month’s report by Steve Nesbitt on Ambient Air Monitoring, Mr. Strange again expressed that, in his opinion, the stack should be tested

8.0 Closed Meeting

Mrs. Tucker moved, and Mrs. Mueller seconded, a motion that the Board of Directors of the Rivanna Solid Waste Authority enter into a closed meeting for matters permitted by § 2.1-344(A) (7) of the Code of Virginia, for consultation with legal counsel and briefings by staff members, consultants or attorneys, pertaining to actual or probable litigation, or other specific legal matters requiring the provision of legal advice by counsel. All members voted aye.

Attendees: Mr. Collins, presiding, Mr. Graham, Mr. O’Connell, Mr. Tucker, Mrs. Mueller, Mr. Krueger, Mr. Hendrix, and Mr. Tropea.

9.0 Resumption of Open Meeting

Mrs. Mueller made the following motion, which was seconded by Mr. Tucker:

“WHEREAS, the Rivanna Solid Waste Authority has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Rivanna Solid Waste Authority that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rivanna Solid Waste Authority hereby certifies that, to the best of each member’s knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification

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resolution applies, (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Rivanna Solid Waste Authority.”

There being no further discussion, Mr. Collins called for a roll call vote:
Mrs. Mueller-Aye, Mr. O'Connell-Aye, Mr. Collins-Aye, Mr. Tucker-Aye, and Mr.
Graham-Aye.

10.0 Adjournment

Mrs. Mueller made a motion, which was seconded by Mr. Tucker, to adjourn this
meeting at 4:18 p.m.

Respectively Submitted,

Mr. Gary O'Connell
Secretary – Treasurer