

RSWA BOARD OF DIRECTORS
Minutes of Regular Meeting
September 27, 2004

A regular meeting of the Rivanna Solid Waste Authority (RSWA) Board of Directors was held on Monday, September 27, 2004 at 2:47 p.m. in the Conference Room, Administration Building, 695 Moores Creek Lane, Charlottesville, Virginia.

Board Members Present: Mr. Mark Graham, Mrs. Judith Mueller, Mr. Gary O'Connell, and Mr. Robert Tucker - Presiding.

Board Member Absent: Mr. Michael Gaffney

Authority Staff Present: Ms. Anne Bedarf, Mr. Bruce Edmonds, Mr. Tom Frederick, Mrs. Mary Knowles, Ms. Kathy Ware, Mr. Bob Wichser, and Mr. Lonnie Wood.

Also Present: Mr. Chris Gensic - RSWA Citizens Advisory Committee Chair, 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. Robert Tucker, in the Chairman's absence, on Monday, September 27, 2004 at 2:47 p.m., and a quorum was present.

2.0 Minutes of the Previous Meeting

Upon a motion by Mr. O'Connell, and seconded by Mr. Graham, the Board of Directors by a 4 - 0 vote approved the minutes of the regular Board meeting held on Monday, August 23, 2004.

3.0 Executive Director's Report

Mr. Frederick stated that he wanted to use this opportunity to make the Board aware, which they might have already observed themselves, that data observed over the past three years shows a steady and increasing trend in waste volumes handled at the Ivy Transfer Station. At this point in time, each month RSWA is reporting, at a minimum four days, and in one month reported up to 12 days, that the volumes being handled at the Transfer Station exceeded 150 tons in a particular day. The Department of Environmental Quality (DEQ) permit allows the Transfer Station to handle up to 300 tons per day in a single maximum day event. The permit suggests to us that the average capacity for the Transfer Station is 150 tons per day. The Authority is currently utilizing 80 to 90 percent capacity on a month-to-month basis. Mr. Frederick felt it was important to bring this trend to the Board's attention.

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Mr. Frederick further stated that the BFI Transfer Station in Fluvanna County has experienced a trend of steady use, but the ups and downs have occurred on a more fluctuating basis as compared to the Ivy Transfer Station.

Mr. Frederick added that he did not feel that the facility had reached a crisis mode. He commented that confirmation of this current trend would suggest the need to hold discussions on the future use of this facility and whether to continue the operation of a transfer station at this location.

Mr. Frederick added that another item on the agenda is a report on the Utility Fee Study. This item more specifically addresses RSWA financial issues. He concurred that it was important to recognize and deal first with the Authority's financial matters. He did want to note that the Transfer Station capacity appeared to be an emerging future issue.

Mr. Graham reiterated comments he made at previous meetings on the importance of strategic planning being done by RSWA employees on the future direction of the Authority. At the same time, he felt that the environmental issues need to be addressed before that could occur. In anticipation of the Corrective Action Plan being approved by DEQ following the Public Hearing held two weeks ago, he believed that we were close to resolving those issues. He added that the Utility Fee Study was almost at a point where recommendation could be made on RSWA financial issues. Mr. Graham felt it was time as a Board and as an Authority to address some of the questions on the future direction of the Authority. There were two big issues that he would like resolved prior to undergoing strategic planning discussions. The first was to determine if the Authority was operating in accordance with its charter and if changes would be needed to the document. The second part related to an examination of the recently updated Regional Solid Waste Plan and whether RSWA's future direction conforms to the recommendations contained in that plan.

Mr. Tucker asked how the rest of the Board members felt about RSWA staff undertaking a study on the Solid Waste Organizational Agreement. After some discussion, the Board members were in agreement that RSWA staff and Mr. Kurt Krueger, general counsel, undertake an analysis of the charter and report back on their findings.

Mr. Graham complimented the RSWA staff's participation during the Regional Solid Waste Plan update process, and he felt they were very capable of addressing

those issues.

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Mr. Frederick noted that the Regional Solid Waste Plan is still subject to approval by DEQ. RSWA expects to receive DEQ's comments prior to the October Board meeting. Mr. Gensic commented that per a letter he received today from DEQ, approval of the Regional Solid Waste Plans would occur by November 15.

Mr. Graham stated that he has not received any indication that DEQ has encountered any problems with the plan, and Mr. Frederick added that he was not aware of any issues. Mrs. Mueller commented that there are generic statements in the plan where the need for further study is indicated before taking action. Those who participated in the update process expressed concern with commitments that might be placed in these areas without further feasibility studies being conducted. On a point of clarification with respect to his assignment, Mr. Krueger stated that he assumed that the Board wanted him to prepare an analysis for Mr. Frederick as the Executive Director and together would present such analysis to the Board. The Board affirmed that Mr. Krueger's statement was correct.

4.0 Items From The Public

Mr. Ed Strange, Ivy, Virginia, first commented on Permit 132 for the compactor as follows:

"You may recall, there was a little item called Option 7A which was supposed to limit the size of that compactor and its permit, meaning 'primarily for the use of three western haulers and also for the convenience of the citizens.' Noted in his written statements, 'whereas Ivy accepts waste from individual handlers all the way up to large volume vehicles.' Well, that's part of the problem. If you're accepting large volume vehicles, you are going to go over. They're supposed to be going to the BFI. The Ivy location is more convenient, especially for the residents and for collection routes in Western Albemarle. Well, I'll agree for the Western section of the County, but there's small amount of waste in the western part of the County. If you really want to serve the greatest source of waste, put it down here. The area already smells. I don't think you're going to get mad unless you did it for something that's going to be here long enough to get on a trailer and leave town. I never understood why you wanted to run 12 miles out in the country and then bring it 12 miles back just to get where you were to start with. I don't want to say too much about that except to say that it will be opposed by the neighbors at Ivy very strongly.

"I'm also surprised that we still have leachate dripping from loaded trailers. That was a problem a few years back. I know that the State Police down there when the

trucks got pulled over, that problem seemed to clear up. The State Police have gone

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away and the problem is back. That's enough said about Permit 132 and expansion. It's not going to be well received if you try to enlarge it. It was limited to a mini, mini, transfer station.

"My real comments today have to do with the air sampling done August 3 this year. Despite what your environmental consultant Steve Nesbitt of Malcolm Pirnie, Inc., indicates in the report, I found the results of the August 3 air sampling results to be troubling and even alarming. Trichloroethene was detected at over 687 times the risk-based concentration (RBC) in test area A-8, which is near the public convenience center. Last year, the same area showed methylene chloride at over 17 times the RBC.

"The only significant difference that I see in this year's report from last year's is the wind direction. It appeared that wind direction controls what chemical solvents are detected.

"As this Board must know, the convenience center is the area most commonly frequented by the public and landfill staff. This area is less than 50 feet from the property line with Dick Woods Road, so we know that fugitive volatile organic compounds (VOCs) are leaving the landfill's property. Of particular concern is there is a residence about 100 yards away.

"I was therefore astounded when Steve Nesbitt only recommended 'continual annual ambient air monitoring.' Clearly, a proactive approach is needed to locate the source of the chemical solvents or VOCs and to control their escaping into the air which we all breathe.

"Area A-1 in the southwest corner of the landfill near the church is another area of concern. This year's results show benzene at over 3 times the RBC. Last year the same area showed trichloroethene at over 93 times the RBC. Once again, the wind direction seemed to control what VOCs are found.

"Your consultant may be in denial, but this Board has an obligation to the public to remedy the unacceptable level of chemical exposure to the public. And I mean every word of that."

Ms. Sally Thomas, who represents the Ivy area on the County Board of Supervisors for the Samuel Miller District, spoke next as follows:

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“I learned when I was a parent not to make promises, so I actually don’t make very many promises as a political figure. But I promised that I would be diligent about keeping a watch over how large the mini, mini transfer station became. I continue to keep watch on that. It will be an issue that will lead to the feeling that promises have been broken if that transfer station is enlarged, because it was very definitely – I’ll just sort of back up what Ed said, in fact the words were precisely as you said, repeated again and again it was to be a mini, mini transfer station.”

Next speaker was Mr. John Martin, Free Union, Virginia, and he made the following comments:

“Concerning Mr. Graham’s comments today about the possible need for reorganization or change of the Articles of Incorporation of the Solid Waste Authority – I would just like to say that if there is a reorganization, it’s my understanding as a citizen that the reorganization would be done by the governing body of Albemarle County and the City and that you would not be reorganizing yourselves. So my suggestion is that those are the people who would do it, the elected representatives in this community. They should be alerted as soon as possible that this might be coming down the pike so that there are no surprises to our elected government and so that they can organize whatever committees or whatever they want to do to take a look themselves at the organization of the Solid Waste Authority, and perhaps the Water & Sewer Authority’s possible reorganization as well.”

Mr. Graham asked if he could respond to Mr. Martin’s comments. He stated that he was in disagreement with Mr. Martin. Mr. Graham was trying to get to the first step to determine whether there was a need to modify the charter. He stated that if the Authority felt changes were needed, then it was their duty at that point to notify the City and the County as signers of the charter.

Mr. Tucker stated that the issues Ms. Thomas and Mr. Strange commented on are included in some of the reports on the Consent Agenda, which is the next item on the Agenda.

5.0 Consent Agenda

Mr. Tucker asked if there were any items that the Board members would like to pull for discussion from the Consent Agenda.

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- 5a) Staff Report on Finance
- 5b) Ivy Landfill/Transfer Station Report
- 5c) McIntire Road Recycling Center/ Paper/Paper Sort Recycling
Operations Manager's Report
- 5d) Environmental Status Report
- 5e) SWA Procurement – Hook-Lift Truck

Mr. Graham stated that he had one question on the Financial Report. He commented that during the previous Board meeting, Mr. O'Connell indicated that the City would be discussing in September their contribution to the Authority. He requested an update on that matter.

Mr. O'Connell replied that a briefing was held with two City Council members who were designated by City Council to examine the whole Solid Waste Agreement. Mr. Blake Caravati and Mr. Kevin Lynch spent a great deal of time reviewing background information and possible future direction. They were also made aware of the Utility Fee Report on today's Agenda. Their general sense is to maintain the City's position, and that until we have a cost allocation agreement, it would be very difficult for the City to move forward with any payment. The City provided a couple of letters in the past to that effect, one from the City Attorney and one from Mr. O'Connell to Mr. Tropea, the previous Executive Director. Mr. O'Connell added that there probably was some willingness to negotiate that position if we could move forward with the Cost Allocation Agreement. He felt that the two Councilmen would like to initiate that process quickly. Mr. O'Connell added that hopefully out of the Utility Fee proposals, payment agreements could be reached and discussions could follow shortly after that between the City and County on a long-term cost allocation agreement in order to address some of RSWA's short-term costs. Mr. O'Connell added that the City was as anxious as the County to move forward on this matter.

Mr. Tucker responded that he thought there was an agreement in place that each quarter each locality would be providing \$250,000 to the Authority. Mrs. Mueller stated that these were based on requests by RSWA. Mr. O'Connell added that City Council's official position has been, and what the Committee is saying, is that the City would like to rapidly move toward a long-term cost allocation agreement. There might be a possibility that an interim agreement could be reached. The fact that the Utility Fee is on today's agenda and are rapidly moving toward recommendations, Mr. O'Connell thought that within 30 days, the City would like

to incorporate them into the negotiations. Mr. O'Connell commented that the City

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has made some advances in order to keep RSWA in a solvent position, and other funds have been received recently that would keep Rivanna financially solvent in the near term.

Mr. Tucker stated that the County has contributed its share of the \$250,000. He thought that would be the case with the City, but now has been informed otherwise. Mr. O'Connell commented that at last month's Board meeting, he stated that he would be meeting with City Council members to discuss solid waste issues and that was the outcome of the meeting. Mr. O'Connell reiterated that hopefully out of the Utility Fee Study, a recommended methodology on how the funding could be handled between the City and County could form a basis for formal cost allocation agreement discussions and eventually an agreement.

Mr. Tucker commented that he understood that these funds were included in the approved City budget. Mrs. Mueller replied that the dollars are in that budget. However, the letter dated September 2001 outlined City Council's position that a agreement was to be in place before financial contributions are made to RSWA. Mr. Tucker added that there were two issues: the Service Contribution Fee and the quarterly contribution. It was his understanding that these two items had been budgeted by the City. Mrs. Mueller responded that the \$250,000 comes out of the Service Contribution Fee.

Mr. Tucker inquired as to what was the understanding in place for this fiscal year for funding from the two localities for RSWA. Mr. Wood stated that there was no official agreement. When the Utility Fee Study began, the contributions were to be used in the interim. During the budget process, it was necessary to include the amount of the unfunded balance. He added that he felt that the City and the County needed to decide how to cover those expenses.

Mr. Graham referred to the letter from Mr. Frederick which called for the quarterly payments. The County had not been informed that there was a problem with these contributions. Mr. Frederick stated that when he came to the Authority, he and Mr. Wood discussed the deficit issue. There was no fee structure in place to cover the deficit, which was largely due to the environmental costs. Mr. Frederick was asked to put a proposal on the table at staff level, which he did. He understood that there had been some payments made by the City and County in anticipation of a permanent solution to this issue that was not yet in place in order to keep RSWA from basically defaulting. Mr. Frederick further stated that RSWA focused in their

staff-level discussion on the funds needed to cover the deficit, which amounted to

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\$500,000 per quarter throughout the year to ensure that RSWA was solvent and to ensure that we would not utilize the funds that the Authority anticipated getting back from DEQ for financial assurance. The RSWA accountant did not recommend that DEQ funds be used to finance day-to-day operations. He did not recall that there was a formal agreement by either the City or the County to honor those payments. Mr. Frederick added that the Authority did receive a payment from the County but has not received a payment from the City, which Mr. O'Connell has explained in the actions taken by City Council members.

Mr. Tucker further stated that he thought both localities had placed money in their budgets, effective July 1, 2004, that would cover the requested amounts. He inquired if the funds were included in the City budget. Mr. O'Connell replied that it was in the City budget, but the City was not authorized per the letter dated September 2001 to make contribution payments until a Cost Allocation Agreement was in place. Mr. Tucker also commented that the County did not understand from Mr. Frederick's correspondence the City's position on this issue. He pointed out that the City did make payments to RSWA last year, which did not follow the directive set forth in September 21, 2001 letter.

Mr. O'Connell stated that the City was hopeful that an agreement would have already been in place. He added that hopefully within two months solid information would be available in order to negotiate a long-term agreement, which is City Council's position. He wanted to make it clear that the funding was in the budget. A funding scheme was put in place to pay what the City believes is their share of the environmental costs at Ivy. This estimated amount was built into the fee structure for the City's residential and commercial customers who are presently paying into that fund.

Mr. Graham stated that he felt that the County was unilaterally supporting and keeping RSWA solvent. If the County took a similar position to not make any further contributions until an agreement is reached, he inquired as to how long Rivanna could remain solvent. Mr. Frederick reiterated that RSWA accountant's advice to the Authority is that it not spend the funding just received from DEQ for daily operating expenses. With no further contributions from the governing boards, Rivanna would be in the position within 60 days where RSWA would either have to spend that money for basic operations or the Authority would not be able to meet its obligations. If the contributions continued over time not to occur, and in the absence of a permanent solution, RSWA would not get through the current fiscal

year without being unable to pay its bills. Mr. Frederick emphasized that either

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continued contributions from the localities or a permanent cost allocation agreement would solve the deficit issue.

In response to Mr. Strange's earlier comments on Permit 132, Mr. Tucker asked Mr. Frederick to explain again the DEQ permit limits for the Transfer Station. Mr. Frederick stated that there is an average of 150 tons per day, and in a single day, not more than 300 tons per day. He added that RSWA is complying with those limits. The purpose of his earlier report was to alert the Board that RSWA was functioning now at 80 to 90 percent range. He felt if the trend continued and before it reached the crisis mode, it would be prudent to initiate effective planning and incorporate public input during the evaluation process.

6.0 Other Business

In regards to **Item 6a1), Approved Minutes of the Citizens Advisory Committee Meeting on May 11, 2004**, Mr. Tucker asked Mr. Gensic if he had any comments on the Citizens Advisory Committee (CAC).

Mr. Gensic stated that Mr. Frederick met with the CAC at their last meeting. The members are also looking forward to a tour of the former landfill. There is a particular interest in electronic recycling and ways to dispose of this equipment throughout the year versus being limited to a yearly recycling event.

In regards to **Item 6b), Utility Fee Study**, Mr. Frederick stated the he would take a few minutes to provide background information since this is the first time this issue has been on the Agenda since he became the Executive Director.

He reported that there had been previous discussion on the impact of the closure of the Ivy landfill and particularly with the increase in environmental costs. RSWA is not able to generate sufficient revenues from tipping fees and other charges to cover the cost of all the operations, including the Transfer Station, environmental issues, and the recycling program.

There are two primary options that have been identified for long-term stability. One of them is the implementation of a Utility Fee across some specified operations of the Solid Waste Authority that are not conducive to tipping fee type revenue. Beyond that, tipping fees would cover a portion of our services and if there are other areas where either the City or the County or both requests that we provide a service that does not generate sufficient revenue through tipping fees, perhaps a

contribution agreement for those types of services. An example of such a service

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would be the recycling program. Although we do receive funds for some of the recyclables that we handle, RSWA does not charge a tipping fee to the public to handle recycling in order to encourage this practice. Therefore, RSWA does not receive sufficient revenues on recycling to cover expenses.

The second option would be to not have a Utility Fee at all, but to supplement those services that can not be recovered through tipping fees through a comprehensive cost allocation agreement envisioned largely between the City and the County.

Mr. Frederick added that regarding option 1, the Board had authorized the staff several months ago to contract with SCS Engineers consulting firm to look at what kind of utility fee could be structured. Looking toward that, a preliminary indication of waste allocation would need to be done in order to set up the fee structure by quantifying customers by service category. SCS Engineers was charged to conduct that waste allocation survey, based on comparing utility fee structures in other localities. It was also recognized that in order to have a supportable fee, local waste generation data was needed. He noted that sufficient local data was not available, especially since the County relied on the private sector to administer this program for them. The first step was to survey some Albemarle County customers and revise the waste generation rates based on the survey results. SCS Engineers has reviewed all the surveys and is in the process of making follow-up contacts with businesses for non-responses or questions on survey content. This time next month, the firm would have a revised waste generation program, which could be broken out by class of business and by City versus County.

Beyond revising the waste generation data, most of the work that SCS Engineers would need to complete would be financial information. This would involve taking the waste generation data, looking at the revenue requirements, and applying fees to cover the revenue gaps.

Mr. Frederick also stated that there are some assumptions that need to be made in order to give SCS Engineers direction on how to set up that financial structure. Mr. Frederick also stated that SCS can complete the development of recommended fees by November 1 provided RSWA has answered three strategic questions on the utility fee financing option by the end of September. These three questions are located on the top of page 2 of this report and they are as follows: (1) How much of the RSWA budget would be financed by the Utility Fee if a Utility Fee is adopted, and how much would be funded by other revenue sources such as tipping fees or

other contributions? (2) If a Utility Fee is adopted, what would be the likely

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effective date? and (3) Should the Utility Fee include the cost of billing, collection, appeals, and other administrative processes that are necessary to implement a Utility Fee but are beyond the current administrative resources at RSWA?

Mr. Frederick explained that the decision the Board would be making today is not to adopt the Utility Fee. It also does not preclude the Board from raising additional questions or request other scenarios be run besides what is being suggested today. He cautioned that depending on how the contract is structured, the request for additional work could result in a request for additional compensation for the firm.

Mr. Frederick commented that a decision is needed today to ensure that the SCS study would be completed by November 1, 2004. Staff is suggesting in answer to the first question for your consideration that we not have one scenario, but actually have two options. This suggestion is a reflection of discussions held at staff level. One of the options would be that the Utility Fee funds only the Ivy environmental cost center in the RSWA budget structure. The second scenario would be to fund all the centers not supported by tipping fees with the Utility Fee. Staff is also suggesting that the implementation date for the Utility Fee be at the beginning of the new fiscal year or July 1, 2005. In answer to the third question, in order to ensure that the recommended fees are equitable to both the City and the County, staff would suggest that the specific administrative fees for handling billing and collection not be covered in the costs funded by the Utility Fee. This issue would be addressed at the appropriate time should a Utility Fee be adopted.

It was the consensus of the Board to confirm the direction to the strategic questions to SCS Engineers as outlined in the Board report and presented by Mr. Tom Frederick in order that SCS Engineers could complete their report by November 1, 2004.

7.0 Other Items From Board/ Staff Not On Agenda

There were no other items from Board or staff not on the agenda.

8.0 Closed Meeting

There was no need for a closed meeting.

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9.0 Adjournment

There being no further business, Mr. Graham moved the meeting be adjourned, seconded by Mr. O'Connell. All members voted aye, and the meeting was adjourned at 3:30 p.m.

Respectfully submitted,

Mr. Gary O'Connell
Secretary - Treasurer