

Approved November 15, 2017

**GREATER NEW BEDFORD REGIONAL REFUSE MANAGEMENT DISTRICT
DISTRICT MEETING – October 19, 2017**

Minutes

The Greater New Bedford Regional Refuse Management District Committee held a publicly posted meeting on **Thursday, October 19, 2017, at 8:00 AM** at the Dartmouth Town Hall, Room 305, 400 Slocum Road, Dartmouth, MA.

District Committee Members in attendance: Rosemary Tierney, Chairperson; Nathalie Dias, Vice Chairperson; Daniel Patten; Christine LeBlanc, Larry Worden.

John Beauregard not present.

Also present: Scott Alfonse, Executive Director; Leonor Ferreira, Secretary; Attorney Matthew J. Thomas, District Counsel.

1. Call to order by Chairperson Rosemary Tierney; roll call of members

Chairperson Tierney called the meeting to order at 8:02 AM.

2. Salute to the Flag

All in attendance stood to salute the flag.

Chairperson Tierney read the notice advising the Board that the meeting may be recorded by audio and/or video.

3. Legal Notices

Chairperson Tierney noted that the meetings were posted timely in both New Bedford and Dartmouth and that the notices be placed on file.

4. Approval of Warrants

Chairperson asked for a motion to ratify warrants dated August 11, 2017, August 15, 2017, August 28, 2017, September 18, 2017 and September 29, 2017. Motion made by Mr. Patten, seconded by Mr. Worden. Vote 5-0.

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5. Approval of Minutes

Chairperson asked for a motion to approve the August 3, 2017 minutes. Motion made by Mr. Patten, seconded by Ms. LeBlanc. Vote 5-0.

6. Old Business

a. Proposal to Lease Land for Anaerobic Digestion project - update

Chairperson Tierney asked for a motion to discuss the update on the proposal to lease land for an anaerobic digestion project. Motion made by Ms. LeBlanc, seconded by Mr. Worden. Vote 5-0.

Mr. Alfonse briefed the Board on the status of the Anaerobic Digester negotiations with Commonwealth Resource Management Bioenergy on the Lease Agreement to lease land for the anaerobic digestion project.

The lease for the landfill gas to energy land and the anaerobic digester land have different terms. These terms must be for the same time. The lease for the landfill gas to energy facility land runs through December 31, 2018 with a provision to extend for five year period. The lease for the anaerobic digester project would be a 20 year lease with two options to extend for five years for each option period.

There are still remaining issues to be resolved with Commonwealth Resource Management Bioenergy.

1. A place to combust the gas from the anaerobic digester project will be needed, and it's preferably the landfill to gas energy facility. The proposer anticipated that the District would be able to extend the lease for the landfill gas to energy facility, but there is no mechanism to do so. The District must issue an RFP to lease the land beginning January 1, 2024.
2. Commonwealth Resource Management Bioenergy wants the ability to obtain all required permits under conditions that are acceptable to them. Because the property is on District land it was assumed the project would be tax exempt. The decision is determined by the town of Dartmouth, not the District. Ms. LeBlanc asked if Commonwealth Resource Management Bioenergy expects to terminate the lease if they are taxed. Mr. Alfonse said that if the taxes are too burdensome, or if they cannot make a profit on the project, they can terminate the lease. Ms. LeBlanc asked if they weren't aware of the issue in advance. Attorney Thomas stated that it was assumed that they would be covered under the District's essential operations exemptions. Mr. Alfonse stated that the landfill gas to energy facility is essential to the District, and that's why it's tax exempt.
3. Commonwealth Resource Management Bioenergy wants the ability to terminate the anaerobic digester lease at any time if it determines in its sole reasonable discretion that the project is no longer economical, and that includes post operation. Despite

efforts to provide the District some relief from a sudden termination, ideas proposed by the District have been rejected. The current lease gives more protection than initially but ultimately the lease can be terminated at any time. Ms. LeBlanc asked if a provision could be added to the lease that states the District can take over operations. Mr. Alfonse said that they have agreed to allow the District to contract with them to operate the facility at whatever the operating costs are, or the District take over the facility, or the District can contract with a third party to operate the facility. Ms. LeBlanc stated that if they terminate the lease, the District should be able to take over operations at a small percentage including the equipment. Attorney Thomas said that the initial notice period, and the period they had to be out by could not be met by the District, and that purchase price is still in negotiation. Mr. Alfonse stated that the purchase price would be the higher of fair market value or the outstanding debt.

4. Commonwealth Resource Management Bioenergy wants the exclusive rights to access the facility without interference by the District. The District should not be required to restrict development of land not subject to conditions of the lease or of an easement. There may be an agreement where the District has the right to continuously operate the landfill and all controls associated with it, while meeting the needs of the city and the town.
5. Commonwealth Resource Management Bioenergy wants the right to dispose of approximately 25 tons per day of solid waste in the landfill at \$30 per ton. That's below current market rate. As a public entity, the District's disposal rates are considered public information. Offering a disposal rate lower than market rate could make future negotiations with contract customers difficult. The project has to have a benefit to the District. One benefit would be a reduction in solid waste that goes in the landfill. Compensation package is still under negotiations. The District may request preference to the New Bedford and Dartmouth food generators.
6. Commonwealth Resource Management Bioenergy further evaluated the mechanically stabilized earth wall, while still providing access to the landfill gas to energy and the anaerobic digester area. Brown and Caldwell is currently reviewing the feasibility analysis of the mechanically stabilized earth wall prepared by ARM Group Inc. The Board discussed the challenges with obtaining permits for the mechanically stabilized earth wall. Mr. Alfonse and Attorney Thomas are trying to provide future flexibility for the District to the extent that they can, but it's understood that there are no guarantees that any of these options would be permitted. The goal is to not to foreclose on the opportunity for future capacity in any one of these options.

The Board agreed to have Mr. Alfonse and Attorney Thomas to continue with negotiations. The next steps are to issue an RFP to lease landfill gas energy land beginning January 1, 2024. Attorney Thomas and Commonwealth Resource Management Bioenergy Counsel would finalize the lease agreement language, and finalize a Development and Operating Agreement. Attorney Thomas provided a draft agreement in August, but Commonwealth Resource Management Bioenergy has expressed no comments until they are satisfied

that the District can move forward with the lease. Attorney Thomas stated that they have agreed through their council that the easements will be terminable easements. It protects the District by taking the property back. Once all agreements are finalized a vote by District Committee will be required.

7. New Business

a. Director's Report

Chairperson Tierney asked for a motion to discuss the Director's report. Motion made by Mr. Worden, seconded by Ms. LeBlanc.

Mr. Alfonse stated that representatives of Hague, Sahady & Co. plan to present the final financial statement at the November 15, 2017 meeting. At that time, the District will need to approve the reconciliation.

Frade's tonnage has been climbing steadily.

Mr. Worden asked about the recycling markets drying out, and the impact it will have on member communities. Mr. Alfonse stated that New Bedford has a long term contract with ABC Disposal that processes the city's single stream recyclables. Dartmouth uses the dual stream collection. Recyclables from a dual stream collection are more desirable in the market. China's green sort initiative is creating an uncertainty in the recycling market.

b. District tonnage and regional capacity update

Chairperson Tierney asked for a motion to receive an update on tonnage and regional capacity. Motion made by Mr. Patten, seconded by Ms. LeBlanc. Vote 5-0.

Mr. Alfonse stated that the District has a permit that states there is a 425 per day limit, and an 115,000 per year limit on tonnage. Historical landfill operation records show it focused on the 115,000 yearly tonnage limit. Earlier permits for the facility contain information that seem to indicate that the 425 tons per day was intended to be a daily average, not a daily maximum.

After discussion with MassDEP it was noted that if the District wishes to change the daily limit, the Site Assignment needs to be modified. The Site Assignment for Crapo Hill landfill does not contain any restrictions on tonnage. The process to modify a Site Assignment is a lengthy, public process. The District's Site Assignment permit is silent on tonnage limit. The tonnage limit is stated on the MassDEP permit. The District should modify the MassDEP permit, not the Site Assignment.

One of the causes for tonnage exceedances is the volume of solid waste delivered by the towns of Oak Bluffs and Tisbury. The District is limiting them to one or two trucks per day. A letter was sent to address the exceedances in solid waste tonnage. Since the letter was sent their tonnage has dropped. The inclement weather often interferes with the boat

schedule. During holiday weeks capacity is lost.

Ms. LeBlanc stated that if the annual volume is not exceeded why not just modify the daily volume. Mr. Alfonse said that at a recent meeting of MassDEP officials, other facility operators voiced their frustration over the daily limit requirements imposed by MassDEP. During that conversation, a MassDEP official said they may be willing to look at the tonnage limits within the context of the permit which limits it.

The District has a favorable MEPA opinion. The District intends to revisit this issue with MassDEP.

c. Application of payments

Chairperson Tierney asked for a motion to discuss the process for applying payments. Motion made by Mr. Patten, seconded by Mrs. Dias.

Mr. Alfonse stated that since imposing interest charges on its customers, the District never applied payments to interest amounts that had accumulated. Most of the District's customers pay their interest or it is forgiven under the current policy.

Payments received will be applied to oldest account balances first regardless of whether that balance is an interest charge or a disposal fee. Customers will be given sufficient notice of the change to allow them to bring accounts into good standing.

Implementation will start February 1, 2018.

Mr. Alfonse provided status on major customer. They are one half invoice over 60 day term, plus the interest. Customer was previously informed that if they were to become current on their account the District would forgive the interest but account is still not current. Ms. LeBlanc stated that since customer has not become current on their account, the Board should not forgive the interest for this major customer.

d. Brown and Caldwell Cell 6 construction services contract

Chairperson Tierney asked for a motion to approve the proposal submitted by Brown and Caldwell for Cell 6 services, and authorize the transfer of \$199,880 from Phase 2 reserves for these services. Motion made by Mr. Patten, seconded by Mrs. Dias.

Mr. Alfonse stated that the cell 6 contract is consistent with the cost of services for cell 5. The number of hours have decreased but the hourly rates increased.

Vote 5-0.

e. Extension of CEC Environmental monitoring services contract

Chairperson Tierney asked for a motion to amend the CEC environmental monitoring contract by extending it for one year (July 1, 2017 to June 30, 2018). The total cost of the amendment No. 1 shall not exceed \$50,246. Motion made by Mr. Patten, seconded by Mr. Worden. Vote 5-0.

Mr. Alfonse stated that the price for services would increase by 2% over the contract price for any extension. The first extension has a provision to extend for one more year.

In addition, two additional wells (a new monitoring well and a water supply well at the landfill gas to energy plant) will be added to the monitoring program. Pricing for 1,4 dioxane analysis reflects lower detection limit than original contract. Ms. LeBlanc asked if it included analysis, and Mr. Alfonse said it did.

8. Set date for next meeting.

Next Board meeting is scheduled for Wednesday, November 15, 2017 at 8:00 a.m.

Motion to adjourn made by Mr. Patten, seconded by Mr. Worden. Vote 5-0.

Meeting adjourned at 8:59 a.m.

Approved by vote of District Committee on Wednesday, November 15, 2017.



Scott Alfonse, Executive Director