

NOT YET
APPROVED

WALLINGFORD REGIONAL SOLID WASTE PROJECT
POLICY BOARD

Minutes of a Meeting of the Policy Board held on October 20, 2010
at Wallingford Town Hall

A Meeting of the Policy Board of the Wallingford Regional Solid Waste Project was held at the Wallingford Town Hall on October 20, 2010. Present at the meeting were William W. Dickinson, Jr., Mayor of Wallingford; Larry Kendzior, City Manager of Meriden; Michael Milone, Town Manager of Cheshire; and Scott Jackson, Mayor of Hamden. Michael Freda, First Selectman of North Haven arrived at 9:25 a.m.

Others in attendance were: Steve Diaz, Cheryl Thibeault and Tim Cady of Covanta Energy; Jeff Duvall of CRRA; Doreen Zaback, Wallingford Project Coordinator; Don Roe, Wallingford Program Planner; and Wallingford resident Bob Gross.

The meeting was called to order at 9:05 a.m. by Chairman Milone.

I. Approval of July 21, 2010 WRSWP Meeting Minutes

Mayor Dickinson motioned to accept the minutes from the above-referenced meeting; Mayor Jackson seconded the motion. The motion was unanimously approved.

II. Project Update

A. Report on Waste Volumes and Plant Operations

Cheryl Thibeault of Covanta distributed the Operational Report for the 3rd quarter (Attachment 1). Ms. Thibeault stated that if there is any information not shown on the current report that the Policy Board would like illustrated to let either her or Ms. Zaback know and they will revise the report format. Overall for the five towns, waste tonnages are up 3.2% relative to the same period last year. For October, however, waste tonnages have dropped off and are at about 90% of what they were for that part of October 2009. Mr. Milone asked what the drop off might be attributed to. Ms. Thibeault replied that it could just be timing of trash generation.

Ms. Thibeault also stated that Covanta is tracking residential and commercial waste, but they are refining those reports before they present the data to the Policy Board. The haulers are now getting used to reporting waste as either residential or commercial.

Mr. Kendzior reported that the Meriden inner district switched to single-stream recycling in August. He stated that the tonnage of recyclables was up 17% the first

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month and 45% in the second month, so they could start to see a corresponding decrease in MSW at the plant, although the data have not shown that yet. Ms. Thibeault said that Covanta will be watching for that.

Ms. Thibeault stated that Unit 2 remains down, and that Covanta continues to bypass waste, mostly to their Preston facility, and some going to other Covanta facilities with the emphasis on waste-to-energy facilities. Overall, Covanta has been able to handle all the waste that is coming into the Wallingford facility and they haven't had to turn waste away. She added that she was aware that there was some concern about wait times and they have been monitoring that. Ms. Thibeault mentioned that Ms. Zaback had asked that she address non-processible waste tonnage as the data showed a significant increase for August and September relative to July. Ms. Thibeault indicated that for the non-processible tonnage was about half of what it was relative to the 3rd quarter last year. She added that Covanta is paying the cost to dispose of non-processibles.

Ms. Thibeault indicated that she had not yet finalized the electric rate for September, but it will be in the low \$50s per megawatt hour.

Mr. Kendzior asked that the report be sent via email so that he can then forward to other appropriate people. Mayor Jackson indicated he liked the report and that it was easy to follow and asked when Covanta would have the breakout of the commercial and residential waste. Ms. Thibeault said they are still working with the software vendor to finalize that reporting, and she didn't have a date yet. Mayor Jackson asked if Covanta is seeing an increase in the standard recyclables such as bottles, cans, cardboard. Ms. Thibeault said they are not seeing anything different from before. She did say that there are new DEP reporting requirements that will be enforced with their Solid Waste Permit renewal that Covanta is putting in place now. She will send information on how this will be done. Mr. Milone also stated that he liked the report, and also asked about the tracking of commercial and residential MSW and if once Covanta has all the software set, if they will go back and report the breakout for the months of July, August and September. Ms. Thibeault indicated they will do that. Mr. Milone also asked that if possible, if Covanta could send documents ahead of time so that he would have time to review them prior to the meeting. Ms. Thibeault said they could do that.

B. Enforcement Activities

Tim Cady, Plant Manager, distributed the Violations/Incidents Report (Attachment 2). Covanta hit the streets hard in August looking for truck route violations, so there is an uptick for July and August regarding route violations. Mr. Cady indicated that they are getting some pushback from some haulers as to whether Covanta has the

ability to tell them they can't be on certain streets, and that a Wallingford policeman has echoed that as well. Covanta will write to the haulers found in violation, but he doesn't want the Policy Board to think Covanta is getting 100% cooperation on this. Mayor Dickinson asked if haulers understood that this is a contractual issue. Mr. Cady answered that he didn't know if haulers understood that. Mayor Dickinson replied that the haulers need to understand that, and if they don't have the ability to take the MSW to the Wallingford facility, that may get their attention. Mr. Milone asked about the incident on September 16, 2010 with AJ Waste. Mr. Cady didn't know the specifics. Mr. Milone stated that if it was a continuing problem, for Mr. Cady to let him know and he will address it with AJ's.

Covanta hasn't handed out any fines yet, only warnings. There has only been one recyclables violation to date. Mr. Cady added that with the new DEP permit conditions, Covanta will be looking at 5% of the loads daily, and if they have greater than 10% recyclables then the hauler will be informed. At the end of the month the offending hauler(s) will be notified. Mr. Cady said the haulers have been notified of the new procedures. Ms. Thibeault said each town will be receiving a letter. Ms. Zaback indicated that the CEOs of each town have received the letters in the past, and Covanta should continue with that practice.

Mr. Cady reported that Units 1 and 3 are running well. The scheduled outages for these units have been completed so the plant is running well and the tip floor is in good shape.

C Environmental

1. Air Emissions

Steve Diaz reported that Covanta had submitted the start-up plan to DEP and the AG's office. He said that Covanta hired a consultant to review their plan and the consultant validated Covanta's plan. Covanta hopes to move forward on their restart ASAP. From an operational perspective, if you take out the dioxin issue, the plant is running real well. From the transition from the service agreement to the merchant environment, Covanta still has some work to do, but overall the transition has gone well. They hope to report back prior to the next policy board meeting that Unit 2 is up and running.

Mayor Dickinson asked where are they in terms of discussions with DEP. Mr. Diaz said they have had discussions with DEP and DEP has been responsive. Covanta anticipates a meeting with DEP within the next week or two to make sure all parties are on the same page in terms of the restart and what is acceptable to DEP, what Covanta proposes and if there is agreement. Mayor Dickinson asked if anything new has come up. Mr. Diaz said nothing

new has come up and what Covanta did do was bring in a dioxin expert to complement their fleet of engineers in New Jersey. The expert has validated Covanta opinion of the cause and in turn what the restart plan will be going forward. Mayor Dickinson clarified that nothing new was identified as the problem for the dioxin exceedance other than what was identified previously. Mr. Diaz no other problems were identified and that there was no risk to the environment and that has been validated over and over again.

Mr. Diaz went on to say that having an environmental exceedance was unacceptable from Covanta's perspective; Covanta assures you that they are doing everything possible to get the unit up and running as soon as possible.

Mayor Jackson asked Mr. Diaz to define ASAP. Mr. Diaz said he is hoping for some time toward the end of the year; hoping sooner. Mr. Diaz said there have been no hiccups with the diversion of waste and they have accepted all the municipalities waste. Mayor Dickinson asked with regard to DEP, has this been filed in court at this point. Mr. Diaz did not know the answer to that question. Mayor Dickinson said DEP explained to him that they wanted to have this stipulation entered to a court as their approach on this and that is why the AG is representing them on this. Mayor Dickinson said he hasn't heard if anything has been served, so he just wondered where this stood because that is a procedural issue that involves time. Mr. Diaz said he would follow up with their counsel on that.

Mr. Milone asked how much waste was being diverted on a weekly basis. Ms. Thibeault said the bypassed waste tonnage was on the report, but it does get complicated because of the two scheduled outages and there have been times when only one unit was in operation. The waste report shows that the amount bypassed was just less than 15,000 tons, but that number is trending down. On average Covanta is bypassing 100-200 tons Monday through Friday and none on the weekends. Mr. Milone asked if they are getting any complaints from haulers at this point. Ms. Thibeault said no, not at all. Mr. Cady said the tipping floor is under control - it was out there for a while, but it is down to a real workable level. Ms. Thibeault did say that if a hauler does get behind a transfer trailer, then there is a 35 minute wait.

Mr. Milone added that when the Policy Board last met in July, Cheryl was hopeful that the issue with the stack would be resolved in a few weeks. He added that he knows how difficult it can be to work with DEP, but his frustration is that when he doesn't hear from anybody he gets concerned and suspicious, and he would appreciate it if Mr. Diaz could at least let Ms.

Zaback know every couple of weeks what is going on. Mr. Diaz summarized that they will do that. He was under the impression that there were weekly meetings. He added that DEP and the AG's office have been extremely responsive and this is an issue that they all want to get right. Going forward, he plans to attend the Policy Board meetings unless he has a schedule issue. Mr. Milone said they would all like that and he appreciated his effort.

2. Quarterly Investigation and Compliance Costs Report

Ms. Thibeault distributed the Quarterly Report to the Policy Board members (Attachment 3). The report is addressed to the CRRRA, and provides an update on the Transfer Act issue. At this time, Phase I and Phase II are completed and on July 9, 2010 Covanta received a letter from the DEP indicated they had received Covanta's Environmental Condition Assessment Form (ECAAF) filing and that if DEP didn't get back to Covanta within 75 days, Covanta could then begin the Phase III on their own. The 75 days have elapsed, so Covanta will have GZA schedule the investigation and remediation of the minor issues that were identified in the Phase II. At this point, \$83,000 has been spent on these Transfer Act activities, and invoices are included in the report. Covanta estimates the Phase III costs to be \$85,000-\$132,000. Mr. Freda asked if that estimate is on top of the \$83,000 already spent. Ms. Thibeault answered that was correct. Ms. Thibeault reminded the Board that the first \$100,000 in costs incurred comes out of the Wallingford Project account, then Covanta is responsible for the second \$100,000 of costs, so the next \$17,000 will come out of the Wallingford Project funds. Mr. Milone reviewed the spending schedule with Ms. Thibeault.

At this point, Mr. Milone indicated that the Covanta staff probably didn't need to remain at the meeting, but they indicated they were fine staying.

III. Reserves

A. CRRRA Wallingford Project Reserve Update

Jeff Duvall of CRRRA distributed a draft resolution to be presented to the CRRRA Board of Directors in November regarding payment of remaining project funds and tables showing the proposed reserve distribution percentages (Attachment 4). He went on to say that the distribution dollar amount is pretty solid, but what needs to be filled in is the audit review date. There are a few things outstanding and will go in a Project Closure account. The next distribution should be expected in the first week of December. In January, CRRRA will have the final wrap-up audit, which will be

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presented to CRRA in February and the results will go to the CRRA Board in March, so then the next distribution should be expected in April. CRRA is looking to distribute roughly \$16 million in December, then the next distribution is estimated to be about \$3 million. What is left after the \$16 million distribution is the following:

Post-Closure account: \$800,000
Wallingford Escrow: \$500,000 (will be tied up for about 5 years)
Risk Fund: \$625,000 (has milestone dates, some go out to 5 years)
Operating Account: \$3,000,000
Landfill Account
 Trust: \$154,000
 Post-Closure: \$7,500,000 (will be drained down over 15 year period)

Mr. Kendzior stated that the minutes from July show the balance of the Operating Account at that point had \$4.25 million and now shows \$3 million, and wanted to know why the balance changed so much. Mr. Duvall said the balance was as of May, so all the June expenses came in. Mr. Kendzior said that there was probably income coming in too. Mr. Duvall said there were the FY2008 and FY2009 true-ups that came through, and there were many more expenses outstanding. Mr. Duvall said he could have accounting pull up all the expenses. Mr. Milone asked that he do that and he then provide it to all Policy Board members. Mr. Duvall will send the information to Ms. Zaback and she will forward it to the members. Mr. Freda asked for clarification on the distributions. Mr. Duvall said the first distribution will be in December 2010, the next will be after the January audit and will be made in April and will include the Operating Account and plus what isn't need in the Post-Closure Account. After that, there will be semi-annual review of these accounts. As milestones are met, distributions will be made from the Risk Fund and the Post-Closure Account. Mr. Milone asked that Mr. Duvall put all this in writing and provide it to the Policy Board.

With regard to the tables included with the draft resolution, the first table shows the percentages calculated using only tonnage of waste delivered to the Wallingford plant during FY 2006-FY 2010, while the second table shows the percentages calculated using all tonnage (including diversions) generated by the member towns. Mr. Duvall told the Policy Board that when the distribution was made in April 2009, tonnage of waste delivered to the Wallingford plant was used to determine percentages. Mr. Duvall is looking for direction for which tonnage numbers to use to determine the percentages for the future distributions. There was some discussion as to the difference in the tonnage numbers.

A motion was made by Mayor Dickinson to use the tonnage that includes diverted waste for the purpose of determining future distribution percentages of former

Wallingford Project Reserves. The motion was seconded by Larry Kendzior. Chair Milone asked for discussion. Mr. Freda said he didn't want any towns to suffer if they budgeted a certain amount and that is now changing. Mayor Jackson stated that he likes consistency and for that reason would be in favor of using the method used in April 2009 to calculate the distribution (tonnage of waste delivered to Wallingford facility); however, he also likes fairness, so for that reason, he will vote for using the tonnage that includes the diverted waste. At this point, there was no more discussion. **The motion was unanimously approved.**

B. Discussion on draft of Wallingford Regional Solid Waste Project Participating Towns' Reserve Fund Agreement

Mr. Milone stated that he knew the Wallingford Town Attorney and Cheshire Town Attorney had weighed in on this document, but wanted to know if the other towns had their legal counsel weigh in on this. Mr. Kendzior asked what was the latest copy of the agreement. Mr. Milone indicated it was the version with the strikeouts that was marked by the Cheshire Town Attorney (Attachment 5). Mr. Milone didn't believe the changes were too substantive and the only issue is to change the distribution percentages. Mr. Kendzior said he felt we should conform the percentages to what was just approved. Ms. Zaback said she thought there was some concern about paragraph 11 dealing with withdrawing from the agreement. Mr. Kendzior said withdrawal requires unanimous approval, so he is in favor of the way it is written. Mr. Milone asked if the Policy Board members need more time for their town attorneys to approve this agreement, or are they comfortable enough that they could approve now. Mr. Kendzior said he didn't think there will be any comments coming from Meriden. Ms. Zaback said she wouldn't feel comfortable having the document approved today in its current form. There was discussion as to whether another meeting was necessary for the Policy Board to approve the agreement. Ms. Zaback said she would like to review the bylaws to determine if Policy Board approval was required prior to having legislative approval.

Ms. Zaback was directed to request that Wallingford Town Attorney, Janis Small, finalize the Reserve Agreement showing the new pay-in percentages. The final version will be distributed to the Policy Board for their review.

IV. Status of Each Towns' Approval of Agreement for Services

Cheshire, Meriden, North Haven and Wallingford have approval to sign the Agreement for Services. Mayor Jackson will review the requirement for Hamden and will have information by the end of the calendar year.

V. **Discussion on Draft Amendment to Municipal Solid Waste Disposal Agreement Regarding Add-On Charge to Tip Fee**

Ms. Zaback stated this was agreement for the add-on fee that the Policy Board asked Covanta to draft (Attachment 6). The add-on would be used to supplement the WRSWP Reserve Account for future Change-in-Law or recycling programs. The agreement says that Covanta will collect the money, but will just function as a conduit for collecting the money from municipalities and haulers and that Covanta will not be liable for non-payment by the parties. Ms. Zaback added that it appeared to her that a municipality could be liable for payment of this fee should a hauler not pay it.

Mr. Freda asked what would be a scenario where a hauler would not pay the fee. Ms. Zaback said wasn't exactly sure how Covanta would handle this, but she supposed that Covanta would send an invoice to a hauler showing the tip fee and tonnage and then have as second line showing the add-on fee. In that case, the hauler might elect to only pay the tip fee for the tonnage delivered. Ms. Thibeault agreed with Ms. Zaback as to the form of the invoice, but added that one thing Covanta would do would be to increase the amount of the surety put up by a customer. Mr. Kendzior asked if Covanta would invoice this separately. Ms. Thibeault indicated it would be a line item on the invoice. Mr. Milone asked for clarification, that the add-on fee wouldn't be just part of the tip fee; Covanta would have two items that show what a hauler is paying. Ms. Thibeault said that was correct, and added that it would make accounting easier. Mayor Jackson asked if invoices are just a single line now. Ms. Thibeault said that it is a single line, but that there is a lot of detail of all loads they have brought in. She added that with one exception, all haulers have been great about paying their bills.

Ms. Zaback said she didn't see any means of enforcement mentioned in the document. Ms. Thibeault said it would be tied to the enforcement that was in the service agreement, that Covanta would use the surety money and then proceed from there, so Covanta didn't add language about enforcement to the amendment. Mr. Kendzior asked if the invoice does need to show two line items. Ms. Thibeault indicated that with two lines, it is much easier to determine what is owed to the towns and what is owed to Covanta and if it is all blended it is difficult to pull out who is owed what. Ms. Thibeault said she could explore if it can be blended and then broken out, but her first review of this is that two lines makes more sense and that is what is done with other facilities that have a county tax. Mr. Milone asked if the invoicing was done with two line items, would Covanta expect two checks from customers. Ms. Thibeault said no, only one check. Mr. Diaz clarified that there would be a total on the bottom on the sheet; haulers would look at one sheet and have two line items. Mr. Kendzior asked why this was necessary. Mr. Diaz said it was for ease of reporting. Ms. Thibeault said she will explore what can be done.

Ms. Zaback indicated that Janis Small had some concerns about this document, but she wanted to hear from other town attorneys before she commented. Ms. Zaback said she would email a copy of the document to each town attorney and ask them to provide comment to Janis Small. Mr. Freda asked that the document be sent to him and he will then forward it to his town attorney.

VI. Project Coordinator Report

A. Discussion of Need for Regional Recycling MRF

Ms. Zaback stated that she was asked by Steve Lynch, Executive Director of the Eastern Connecticut Resource Recovery Authority (ECRRA), to poll the member towns about the need for a new recycling material recovery facility (MRF) in the region. Mr. Lynch indicated that ECRRA and the Town of Middletown are considering the development of a new recycling/C & D waste facility in Middletown with bale-to-rail capability. The facility would be able to accommodate both single-stream and dual stream recyclables.

Mr. Kendzior stated that Meriden was tied in with the Tunxis Recycling Operating Committee, which recently signed a new contract with Murphy Road Recycling in Berlin. Mayor Jackson indicated that Hamden was looking to contract with Willimantic Waste. In general, the Policy Board indicated that the fees offered at the new facility would determine their level of interest.

B. Discussion of Proposed Covanta Community Project

Ms. Zaback stated that Covanta has expressed the desire to sponsor a one-day collection of mercury thermometers and mercury-containing devices for residents of member towns. Ms. Zaback reported that she had contacted HazWaste Central about the need for such a collection, and that the HazWaste Central coordinator had indicated that little mercury is collected at HazWaste Central collections. Cheryl Thibeault of Covanta stated that these collection programs are successful in many parts of the country; the collection events are often held in library parking lots and do not require a DEP permit. The Policy Board did express interest in such an event. Details will be forthcoming.

Ms. Thibeault also reviewed for the Policy Board, the shoe reuse program, Soles4Souls, which Covanta has participated in. Soles4Souls is a charitable organization that provides shoes to people in need. Last year, Covanta partnered with the Wallingford schools to collect useable shoes. Covanta provided collection boxes for each school, collected the shoes at the end of the collection period, and then shipped shoes to Soles4Souls. Covanta would like to offer this program to

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member towns other than Wallingford this year. Policy Board members asked Ms.
Thibeault to forward to them more information about the program

VI. ADJOURNMENT

The Meeting was adjourned at 10:25 a.m.

Doreen Zaback
October 26, 2010