

RSWA BOARD OF DIRECTORS
Minutes of Regular Meeting
May 21, 2007

A regular meeting of the Rivanna Solid Waste Authority (RSWA) Board of Directors was held on Monday, May 21, 2007 at 3:20 p.m. in the Conference Room, Administration Building, 695 Moores Creek Lane, Charlottesville, Virginia.

Board Members Present: Mr. Michael Gaffney - Presiding, Mr. Mark Graham, Mr. Gary O'Connell, and Mr. Robert Tucker.

Board Member Absent: Ms. Judith Mueller.

Authority Staff Present: Ms. Anne Bedarf, Mr. Bruce Edmonds, Mr. Tom Frederick, Ms. Mary Knowles, Ms. Jennifer Whitaker, Dr. Robert Wichser, and Mr. Lonnie Wood.

Also Present: Ms. Carolyn J. Fowler – President of HR Diversified Solutions, LLC, 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. Michael Gaffney on Monday, May 21, 2007 at 3:20 p.m., and he noted that a quorum was present.

2.0 Minutes of the Previous Meeting

Upon a motion by Mr. O'Connell, and seconded by Mr. Tucker, the Board of Directors by a 4 - 0 vote approved the minutes of the regular Board meeting held on Monday, April 23, 2007.

3.0 Executive Director's Report

Mr. Frederick stated that as discussed last month, RSWA reported the 2006 recycling rate for its service area as 38.5%, which incorporated the numbers from Albemarle County, the City of Charlottesville, and the Town of Scottsville. RSWA has since been informed that the Thomas Jefferson Planning District Commission (TJPDC) submitted a report to the Department of Environmental Quality (DEQ), and announced the 2006 recycling rate for Region 10 as 35.2%. The recycling figures for the other jurisdictions were listed in the Board report and included Fluvanna, Greene, and Nelson Counties. He noted that Nelson County's rate increased significantly over 2005, and he congratulated its efforts.

Mr. Frederick next recognized Albemarle County's Public Information Officer and the Police Department who assisted RSWA to improve litter control along Dick Woods Road. He expressed his appreciation for their efforts.

4.0 Items from the Public

Mr. John Martin, resident of Free Union, Virginia, recalled last month's discussion related to the Service Contribution Fee agreement or non-agreement and the suggestion made for citizens to consider contacting their elected representatives of government concerning this matter.

Mr. Martin followed up on that suggestion at the very next Board of Supervisors meeting where he provided the Board of Supervisors with a copy of the amounts owed by the City in principal and late payments, along with a copy of the letter dated 2001 where the City announced it would no longer pay the Service Contribution Fees and would hold them in a separate interest-bearing account. He also provided the Board of Supervisors with a copy of a response to a Freedom of Information Act request that he filed, which states that the funds are not being held in a separate interest-bearing account but were kept with the General Funds. He has heard no other information since his contact with the Board of Supervisors.

Mr. Gaffney thanked Mr. Martin for his comments.

5.0 Consent Agenda

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

- 5a) Staff Report on Finance
- 5b) Staff Report on Ivy Material Utilization Center
- 5c) Staff Report on Recycling Operations
- 5d) Staff Report on Environmental Status
- 5e) Citizens Advisory Committee
 - Approved Minutes of March 13, 2007 Meeting
- 5f) Merit Pool for FY 2008

Mr. Graham moved, which was seconded by Mr. Tucker, that the Board of Directors vote to approve **Items 5a), b), c), d), e), and f)** of the Consent Agenda. The motion was approved by a 4 – 0 vote.

6.0 Other Business

In regards to **Item 6a), Public Hearing and Adoption of FY 2008 Budget**, Mr. Frederick provided a brief summary of the proposed budget prior to holding the public hearing. He stated that the Board adopted a resolution last month to advertise the proposed rate schedule as preliminary rates for the purpose of notification of a public hearing to be held during today's meeting. At the April meeting, the Board requested and RSWA staff was in agreement to re-evaluate the proposed budget, which would include discussions with Mr. Graham and Ms. Mueller. Since that time a review of expenses, particularly in the environmental area, was conducted and some adjustments were made to the budget that had been presented to the Board in April, which are reflected in the revised budget and summarized as follows:

- Environmental Standards, Inc. (ESI) has been exploring the most cost-effective approach for implementing Enhanced Bioremediation at the Ivy site. As a result of these efforts, there have been some reductions in costs based on changes in the method of implementation.

- Hydraulic conductivity testing has also been conducted in Cell 3. While there were still some unknowns, it is believed that the amount of leachate required to be removed from Cell 3 is less than what was originally forecasted. An evaluation of the effect on leachate treatment found that there was some reduction in costs.
- Current expenses in Ivy Environment were projected to be \$1.95 million instead of the \$2.82 million that was budgeted a year ago. Some of that reduction is reflective of delays in the DEQ permitting process.
- MOU payments were now being forecasted as \$1.789 million for the County and \$985,000 for the City due to the reductions in the Environmental budget.

Mr. O'Connell inquired if the operating budget outside of the environmental program remained the same as the one presented last month. Mr. Frederick replied in the affirmative and added that the budget on the table today still has a \$400,000 deficit in the overall operating expenses, which are outside of the environmental program.

Mr. Graham next commented that at last month's meeting there was some discussion about RSWA exploring possible ways of addressing the shortfall and inquired if Mr. Frederick had any information that he could share with the Board today about that issue. Mr. Frederick asked if the Board preferred to have this discussion before or after the public hearing. After some discussion, the Board agreed to hold the dialogue at this time since there might be members of the public who would want to take the opportunity during the public hearing to comment on any of the items under consideration.

Mr. Frederick then stated that he and Mr. Lonnie Wood, Director of Finance and Administration for Rivanna, have had many discussions regarding how to reduce the \$400,000 shortfall. As was known by citizens who attended Board meetings regularly, RSWA offers some programs within its solid waste operations that are fee driven based on tipping fees, for example the Ivy Transfer Station. RSWA also offered what he referred to as "government service" programs that do not collect tipping fees but provide valuable service benefits, which include the Authority's recycling programs and the Household Hazardous Waste Collection program. Those services are provided free to the public, and to the extent that RSWA is not able to support them through tipping fees, other means of support is required. There have been ongoing discussions between the City of Charlottesville and Albemarle County concerning funding programs not supported by tipping fees through some type of cost share agreement. With the lack of a cost share agreement, discussions on options to address this issue include cuts in services for programs that are not self-supported through fees.

Mr. Frederick further reported that the first of those options could result in an immediate reduction of \$97,000, which was about 25 percent of the \$400,000 deficit, by suspending Household Hazardous Waste Collection programs now being offered twice a year at the Ivy facility until such time as there is an agreement between the City and the County to fund those programs. Mr. O'Connell inquired about the date for the next event. Mr. Frederick stated that the fall collection is scheduled for October 6, 2007. If there were a suspension of this program, the October date would be held with the vendor as long as possible in the event an agreement was reached.

Mr. Frederick next stated that staff identified a second option that could save \$345,000, which was 80 percent of the deficit, by transferring the debt service and the Household Hazardous Waste Collection programs from the operating funds to the Environmental budget. RSWA felt those two items could be considered environmental expenses since the debt service is the cost of the Settlement Agreement, which was all related to the groundwater environmental issues at the Ivy site, and the Household Hazardous Waste Collection programs that were felt to provide an environmental benefit as well. The Memorandum of Understanding (MOU) payments would then be adjusted upward to reflect these increases in the Environmental budget, which would equate to 64.5% for the County and 35.5% for the City. The MOU payment for the University of Virginia is a fixed amount, so the institution would not contribute towards any increases assigned to RSWA's budget.

Mr. Frederick then reported on the third option that would involve scaling back or possibly even eliminating the operation of the McIntire Road Recycling Center. He felt from the public's perspective this would be a very unpopular decision. There would be a net savings of about \$155,000 a year by eliminating this service. RSWA did receive some revenue at the McIntire facility, particularly from the fiber and metal products, which was reflected in the \$155,000 net deficit.

Mr. Frederick next commented that the fourth option would be to cease operating the Paper Sort Facility, which he felt would also be an unpopular decision. The facility received paper from the City's curbside service and commercial operations throughout Albemarle County and the City of Charlottesville. Some revenue was obtained from the cardboard, brown paper, and newspaper material that it received, but the amount did not completely offset the cost of operating the facility. The elimination of that service on an annual basis would save \$136,000. RSWA was required by a lease agreement for the operation of the facility to give the owner a six-month notice, which would be a factor when considering this option.

Mr. Frederick stated that the fifth option entailed increasing the tipping fees at the Ivy Transfer Station associated with small loads. He used as an example individuals who lived in remote areas that did not have curbside trash collection and transported the trash in their own vehicles to the Ivy site for disposal. The tipping fees for those individual loads would either be increased or a minimum per-trip fee would be increased. The logic for considering an increase in the tipping fee for the smaller loads versus the haulers who provided curbside service was based on the considerably higher labor costs for handling the smaller loads. RSWA has not computed the potential increase in annual reserves, but could do so if it were the pleasure of the Board. During the ensuing discussion concerning possible revenues from implementing the fifth option, Mr. Tucker commented that he would favor a flat fee due to the varying sizes of the individual loads. Mr. Gaffney then asked if individuals currently pay about \$4.00 to dispose of a 100-pound load at the Ivy Transfer Station. Mr. Frederick stated that the fee would probably be in that range. Mr. Frederick added that he felt a flat fee would have a greater impact on individual loads of 100 pounds or less and would not impact the waste haulers.

Mr. Tucker next asked if it were correct that delaying the Household Hazardous Waste Collection programs or holding just one event per year would save RSWA about \$100,000. Mr. Frederick stated that holding one event per year would save about \$48,000. Both events would need to be suspended in order to realize the full savings.

Mr. O'Connell next commented that he felt there was logic to the second option since there was already an agreement in place concerning MOU payments and inquired if there was a "downside" that needed to be considered. Mr. Frederick responded that the "downside" would be an increase in the MOU payments. Mr. Graham then stated that he felt debt service would "fit" in the MOU but wanted to ensure that the MOU allowed for that item to be covered under the terms of that agreement. Mr. Frederick asked Mr. Krueger if he had any comments at this time or if he would need to study the issue further. Mr. Krueger stated that he did not recall a specific exclusion in the MOU for debt service costs, but he would want to review the MOU.

Mr. Tucker next commented that the County had felt a cost share agreement with the City would be in place by this time, so the additional funding that would be required under the second option to cover the increase in environmental costs was not included in the County's FY 2008 budget. He then inquired if the City had included the additional funding in its budget. Mr. O'Connell stated that the funding was included in the City's budget. Mr. Tucker then suggested that consideration be given to using reserves while maintaining the 90-day reserve level recommended by Mr. Wood due to the County's budget constraints.

Mr. Gaffney next inquired what the actual net income loss was for FY 2007, and Mr. Graham asked that the figure not include the City's Service Contribution Fees. Mr. Wood stated that there was about a \$90,000 loss in operations for the month of April, and in May it was \$150,000. Mr. Gaffney then questioned whether the Authority would end the current year with a \$540,000 loss. Mr. Wood replied in the negative and added that he estimated the amount of cash currently on hand by factoring in the changes to environmental costs as discussed by Mr. Frederick and projecting that an additional \$100,000 to \$150,000 of operating cash would be used between now and June. Based on these calculations, there would be about \$3.3 million remaining in overall cash reserves for environmental purposes. Mr. O'Connell then asked Mr. Wood how those figures compared with last year's reserve balance. Mr. Wood stated that there was \$3.8 million in reserves at the beginning of the current fiscal year, and \$500,000 has been used during the year primarily for some of the environmental programs and also on a smaller scale for operational expenses. In order to maintain a 90-day reserve supply, \$2 million would need to be maintained for that purpose and \$1.3 million could be used to offset some of the MOU costs. Each 30-day period equated to \$600,000 in reserves. The amount of available cash would increase as the reserve supply target was lowered.

Mr. O'Connell next referred to a sentence in this month's financial report that read, "If you factor out the surplus in environmental MOU payments ... the cash used in all other operations is (\$89,517)." Mr. O'Connell asked if that was the amount used per month. Mr. Wood responded that it was the year-to-date figure. There were two large items that would require the use of cash during May and June, which included major repairs to the Ivy Transfer Station and some grinding work.

Mr. Gaffney suggested and the Board was in agreement that the discussion be opened up to the public at this time. Mr. Gaffney then formally opened the Public Hearing at 3:44 p.m.

Mr. John Martin, a resident of Free Union, Virginia, commented that "this has gone far enough." He stated that since the City was refusing to pay its Service Contribution Fees, two options were being considered. One option involved taking money out of the environmental reserves and using it for operations. The second option would call for the elimination of valuable services to

the public. He has personally gone to the landfill on several occasions during the Hazardous Waste Collections and Bulky Waste Days. He has seen the people who participate in these events and has observed their excitement. He felt it was a valuable public service and having these types of services as well as the recycling center is part of the reason that this community "is what it is." Mr. Martin felt that the issues were not just saving people's money since these services were provided free to the public, but it "sets a public mindset that carries over to ... many other kinds of activities." He reiterated that it was an extremely valuable service. "It would be an outrage – a public community outrage – to cancel any of these programs." Mr. Martin further commented on the number of years that have gone by and the number of times this topic has been discussed. He knew that there were discussions going on in the City and the County, and "nothing's getting done to resolve this problem, except now to talk about canceling these valuable services to the public, who were going to be the losers. I demand today that you take a vote to retain outside litigation counsel and talk to that counsel and get that counsel involved to resolve this problem."

Mr. Gaffney thanked Mr. Martin for his comments.

As there were no other members of the public who were in attendance at the meeting who wanted to speak on the proposed RSWA FY 2008 budget, Mr. Gaffney closed the Public Hearing at 3:44 p.m.

Mr. O'Connell then inquired if the budget needed to be adopted at today's meeting and what would be the implications if it did not get adopted. Mr. Tucker stated that the budget could be addressed again at the June meeting so that the Board will have an opportunity to assess the options presented today. Mr. O'Connell further commented that a review of the MOU would also need to be done to determine if the second option is feasible. Mr. Tucker next stated that he felt there was a bigger issue involved than determining what was allowed in the MOU. He felt an agreement was needed between the City and the County. Mr. O'Connell responded that he was in agreement with that statement, but it was not his call. He felt that he had been personally actively involved with trying to negotiate an agreement, but since an agreement had not yet been attained, the Board could adopt a deficit budget. Another option would be for "one side of the Board to sue the other side of the Board," but he felt this course of action would not result in an agreement being reached any quicker. Mr. Tucker next commented that an agreement would not occur in the very near future even as a result of any court action. Mr. Graham added that he was in agreement with Mr. Tucker's comments that a legal course of action might be needed, but it would not obtain a solution in time for this budget. The options available at this time included applying the reserves set aside for environmental issues to operational expenses or exploring ways to either to generate additional cash for operations or reduce the operational services provided to the public.

Mr. Graham next referred back to the issue of deferring a decision on the proposed budget until June and asked RSWA staff if this would present any difficulties in its preparations for the new fiscal year. Mr. Frederick responded that there was one item that he felt would assist staff if it were addressed at today's meeting. Usually by the time of the June Board meeting, Human Resource and payroll staff were completing the necessary paperwork to implement the pay increases that take affect July 1, 2007. If the Board adopts the new pay plan and authorizes staff to proceed with the merit increases, which is a portion of this budget, he was not aware of any other critical issues that would be impacted by deferring a decision on the rest of the budget until

the June meeting. Mr. Tucker then asked if there were any changes to the rate schedule that would need to be addressed prior to the June meeting. Mr. Wood stated that only the hauling fees changed, and they would stay in effect until the budget was adopted. Mr. Graham expressed his concern that adequate notice would not be provided to the haulers by deferring action on the budget for new rates that would become effective July 1, 2007. Mr. Wood responded that the hauling fees were the amounts charged by RSWA to deliver items such as mulch or lumber log compost to its customers and would not impact the haulers bringing material to the Ivy facility.

Mr. O'Connell next stated that if Option 2 was selected and the \$345,000 was placed in the Environmental budget with an agreed-upon "split," was legally permissible and not an accounting issue, it would address 80% of the deficit issue. Mr. Wood added that this would leave a \$61,000 deficit under that scenario. Mr. O'Connell then suggested that the \$61,000 could be funded out the reserves, which would close the gap, keep the services in place, and hopefully an agreement would be reached. Mr. Tucker next commented that the County had agreed upon the MOU percentages with the understanding that the City's Contribution Fees would be used to help fund the remediation costs at the Ivy facility. Mr. O'Connell responded that once an agreement was reached there would be about \$1.9 million in accumulating Service Contribution Fees available for that purpose. Mr. Tucker then commented that there have been discussions for the past five years during the budget process about being close to an agreement, which has yet to occur. After some additional discussion concerning the City and County budget process for funding environmental costs, Mr. Gaffney commented that there were 35 days between now and the June Board meeting when the budget will need to be adopted. He felt it would be best to adopt a balanced budget that included an agreement for the Service Contribution Fees. He asked that the City and County continue this discussion after the meeting in order to figure out a way that this could be accomplished within the next 35 days. Mr. O'Connell next stated that he felt there should be a strategy in place if an agreement could not be reached by the June meeting. Mr. Tucker next commented that without an agreement in place, using the reserves was the only option that could address the large amount of funding that would be needed to achieve a balanced budget. Mr. Gaffney then stated that what he was hearing during this discussion was that the City could support moving the \$345,000 to the Environmental budget but that the County did not have the \$220,000 to pay their share of those costs. Mr. Tucker noted that the amount would be higher for the County due to the other remediation expenses.

Mr. Frederick next stated that an option that was presented previously concerning some type of borrowing instrument could be considered if one or both of the organizations could not fund all of next year's environmental expenses. It had been mentioned that the individual organizations could finance the funding on their own or guarantee some type of instrument that would be carried by RSWA, but it would probably be at a higher interest rate. Before the Board considered using reserves to fund ongoing operating programs, there were some one-time components in the MOU this year that were very logical to consider for financing. Mr. O'Connell then suggested that the City and County Finance Departments discuss ways to address this issue. Mr. Tucker agreed that it was an option that could be further reviewed by the County in terms of financing some of the environmental costs, but he felt there were some other quality options to consider as well.

Mr. Frederick then suggested that RSWA could contact the respective Finance Directors on possible financing options in order to develop a specific proposal. Mr. Wood next commented that he felt that the process becomes more complicated with when you involve more people. He

then summarized the steps involved with financing, which included getting a 10-year loan from a bank. He felt that the Virginia Resources Authority and the Virginia Municipal League could offer some assistance but it might not be in a timely manner. Items in the Environmental budget were not considered capital costs as they did not have a fixed-asset potential. Mr. O'Connell then inquired about the time frame for incurring the largest environmental expenses. Mr. Tucker stated that he thought that those expenses would hit their peak during the next two years. Mr. Wood responded that Mr. Tucker was correct and that environmental costs for FY 2008 were \$4.4 million. Mr. Wood felt if \$1.2 million in reserves was used to offset some of the MOU costs that it could help the County's funding issues. He expressed the opinion that it might not be worth the effort to finance about \$200,000 to \$300,000, which would be the remaining costs not covered by the reserves. Another option would be to use more of the reserves and allow RSWA to enter into a flexible line of credit to meet its operating cash needs. Mr. Wood pointed out that in the past without a line of credit RSWA has had difficulties meeting its obligations to its vendors, which has required that the Authority request local government assistance. He preferred that the Authority would not have to pursue this option in the future.

Mr. Tucker next commented that without an agreement he felt eventually RSWA would need to determine how it could manage its expenses and obtain a revenue stream. He agreed with the earlier comments by Mr. Martin about not wanting to eliminate some of the Authority's services. RSWA as an Authority was enabled to raise revenue and that option might need to be considered rather than the local governments covering the shortfall outside of the environmental costs.

Mr. O'Connell then asked how RSWA could raise that revenue. Mr. Tucker stated that the issue of a utility fee could be revisited. Mr. O'Connell next commented that he remembered there were concerns expressed at that time about that option. Mr. Tucker stated that the City did not want to charge each homeowner a flat fee to fund RSWA's operation and preferred that a bill be sent to the City to cover those costs. Mr. Gaffney then pointed out that RSWA was concerned about the costs for setting up a utility fee system. He further suggested that without an agreement another option would be to close the Authority and return the responsibility for solid waste services to the City and the County.

Mr. O'Connell then stated that he was in agreement about not adopting a budget that has a deficit and that there were five options presented today for the Board's consideration. Mr. Tucker next commented that he did not want to hold up the process for implementing the staff's salary and merit increases by deferring a vote on the budget until June. He inquired what action the Board could take to show support of the budget with the exception of the deficit issue. After further discussion about how that could be accomplished, it was agreed that it was the consensus of the Board to support RSWA staff moving forward administratively with the payroll-related changes that would be effective July 1, 2007 while deferring action to adopt the budget until the June Board meeting.

Mr. Graham next stated that he wanted to be certain that staff were clear as to the plan of action between now and the June Board meeting to address the \$400,000 deficit. Mr. Wood then commented that there were multiple variations for each of those options, so it would helpful if the Board could prioritize those options. Mr. Graham stated that he understood from the discussion that there was agreement about shifting the debt service into the Environmental MOU as being an acceptable option. He felt that he and Mr. Tucker expressed an interest in looking at the Ivy tipping fees to see if there could be any adjustments. Mr. Graham was also in agreement

with Mr. Tucker about favoring a flat-based fee that would be adequate to cover the costs for that service. During the discussion concerning the Paper Sort option, Mr. Graham expressed concern about eliminating that program since he understood it was the one recycling operation that was at least covering its costs. Mr. Wood then commented that as tonnages have been declining over the past two to three years, this might not be the case in the future. Mr. Graham added that 80% of the recycling tonnage was handled at that facility. The amount of tonnage being generated at the McIntire Road Recycling Center from glass, plastics and metal is about 700 or 800 tons per year, which was a small amount compared to the costs for operating the facility. In deference to Mr. Martin, he would not want to see any reduction in services, but without operating cash, he would want this option to be put on the table for further discussion. Mr. Graham felt that eliminating the Household Hazardous Waste Collections would be “incredibly short sided,” but without the necessary cash to support the continuation of that program, he did not know if there were any other options.

Mr. Tucker added that financing options were presented for some of the items in the Environmental budget to cover the gap between what was budgeted by the County and the increase in the County’s MOU costs. He suggested that Mr. Graham meet with RSWA staff to discuss these financing options in further detail. Mr. Graham next commented that there needed to be a sense of urgency in order to reach an agreement.

In regards to **Item 6b), Salary Compensation Study and Pay Grade Adjustments**, Mr. O’Connell moved, which was seconded by Mr. Tucker, that it was the consensus of the Board of Directors that it would support RSWA staff moving forward administratively with the payroll-related changes in the FY 2008 budget that would be effective July 1, 2007, while deferring action to adopt the FY 2008 budget until the June 25, 2007 Board meeting. The motion was approved by 4 – 0 vote.

7.0 Other Items from Board/Staff not on Agenda

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

8.0 Closed Meeting

There was no need for a closed meeting.

9.0 Adjournment

There being no further business, Mr. Graham moved the meeting be adjourned, seconded by Mr. Tucker. All members voted aye, and the meeting was adjourned at 4:05 p.m.

Respectfully submitted,

Mr. Gary O’Connell
Secretary - Treasurer