

DUTCHESS COUNTY RESOURCE RECOVERY AGENCY

JUNE 15, 2017 – MEETING MINUTES

A meeting of the Dutchess County Resource Recovery Agency convened at 5:00 p.m. at the offices of the Agency located at 96 Sand Dock Road, Poughkeepsie, New York. Those present included J. Small, Chairman; W. Nussbickel, Treasurer/Secretary; Board Members; D. Petrovits, S. Tinkelman and D. Lois.; Agency Staff, L. Carille and D. Walsh; J. Senft, and J. Metzger, Dutchess County Legislator.

- 1. Regular Session** – Chairman J. Small called the meeting to order at 5:05 pm.
- 2. Minutes** – Chairman J. Small presented the minutes of the April 20, 2017 board meeting. A motion to approve the April 20, 2017 board meeting minutes was made by S. Tinkelman, seconded by D. Petrovits and unanimously approved.
- 3. Operating Report** – The May budget for incoming tonnage was set at receiving 14,214 tons of waste. The scheduled Facility outage occurred in the month of May which made it difficult to reach the tonnage that was budgeted for the month. The Facility accepted 10,768 tons of waste. Since the pit level never came down far enough before the scheduled outage, Royal Carting agreed to divert some of their waste. A total of 2,735 tons of waste was diverted. The diverted waste is counted towards Royal Carting's put or pay obligation. It also became necessary to shut down receiving for 2 ½ days, beginning Monday afternoon May 23rd until Wednesday, May 25th. The Agency receives tonnage credit for the diversion by the Operator and also there is a reduction to the service fee paid to the Operator. With the necessary waste diversion back in March and in May, the Facility is running approximately 7,700 tons behind meeting the established yearly budget total.
- 4. Facility Report** – The Net Agency Tons (NAT) for the month was 10,763.28. There were 2,734.60 tons of wrongfully refused waste. This waste was diverted by Royal to prepare for the Annual Outage. The Facility sold 2595.13 MW to Central Hudson. The net energy conversion performance rate in May was 241.1 kWh/NAT. The electric recovery guarantee was not met. The ferrous recovery in May was calculated to be 4.19%. The 4.0% guarantee was met. The official wet ash residue was 33.36 percent of NAT, which exceeded the 32.0 percent guarantee. Wheelabrator has absorbed the additional fee for not meeting the 32.0 percent residue guarantee and reduced their May 2017 invoice in the amount of \$5,841.19. The diverted waste resulted in a net reduction of the service fee of \$61,842.13. The value of the submitted invoices, totaling \$680,186.77 is considered complete and approved for payment to Wheelabrator.

The Facility performed the Annual Spring outage to perform maintenance on the boilers. On May 22nd and 23rd both boilers were down, a "cold iron" to perform maintenance. A GBB engineer was onsite May 23rd to perform an outage inspection. GBB stated, "It appears that Wheelabrator has established a positive trend in improving plan material condition, having

initiated, and continued, the process of correcting the conditions reported by GBB and GBB's predecessor, HDR."

The turbine/generator was offline during the cold iron outage and no waste was processed. Due to the high pit levels at the start of the outage, the Facility needed to refuse waste; however, contingency plans for such a situation in the future are being completed so the Facility will not turn away waste. Wheelabrator has agreed to plan their outages better trying to avoid the high volume waste months and to also plan better to bypass waste.

Major repairs were conducted on the ash conveyer. Numerous problems with the conveyer have been occurring so a complete overhaul of the system was done. Ash and metals were bypassed during this time and after separation by magnet, loaded into containers for transport.

Boiler 1 availability was 81.6% due to the downtime for the outage. Boiler 2 availability was 66.41% due to the downtime for the outage. Turbine availability was 84.9% due to the outage and repairs to bearings and to the exhaust trunk. There was a very short, less than 24 hours, trip to the turbine in May. When the turbine is offline, it does make a loud "whoosh" noise. There is a neighbor close by that complains immediately upon the noise and notifies the County, the County Legislator and Town Councilman over it. Recently there was a call made this past weekend, but the noise was not generated from this Facility. Looking ahead, Wheelabrator is trying to look at ways to suppress the noise, suggesting perhaps bringing in a trailer to try to muffle the noise during these occurrences.

The first quarter Part 360 Compliance Report was submitted. Two NYSDEC inspections were completed with no violations noted.

L. Carille spoke about Upstate Shredding, the metals contractor, and how they have recently again neglected to provide service for over a week in addition to their account being delinquent and owing over \$220,000. The Agency was informed from Upstate Shredding that service will resume as soon as the Agency agrees to an amended contract. The amendment was not at all favorable to the Agency. After conversations with the President of the company, it was mutually agreed that Upstate Shredding will pay their account balance in full and proceed with ending their contract with the Agency. To date, there is a \$42,537.48 balance still owed to the Agency along with three empty containers owned by Upstate Shredding remaining on site. The Agency has been using the local metal recycling company, Baroni Scrap Metal, to service the metals from the Facility. A formal short-term agreement will be finalized shortly with Baroni Scrap Metal. Chairman J. Small requested contacting other metal recyclers to see if there is any interest. S. Tinkelman asked if there is any further action to be taken with Upstate Shredding because of their breach of contract. L. Carille will speak with Agency counsel over the matter. For future metal contracts, J. Senft suggested requiring a bond along with the contract so if the company fails to perform up to their contract, the bond could come into play and pick up the difference.

5. **Agency Financial Report** – The payables were presented in the amount of \$834,371.43. With no further discussion, a motion to approve the payables for \$834,371.43 was made by W. Nussbickel, seconded by D. Petrovits and unanimously approved.

The Profit and Loss Analysis statement was reviewed. L. Carille stated that the positive net service fee number this month of \$114,482 contributes from the surplus sale of equipment for \$25,050 along with the bond work reimbursement for \$54,549 from VanDeWater and GBB Engineering. S. Tinkelman inquired about the increase to the debt service interest total listed on the statement. L. Carille replied that since the annual budget was done back in October, it was based on an estimated number, not actual. When the refinancing of the 2017 bonds was finalized, the amount came in more than estimated. The interest expense with the new bonds has decreased, but indicates a higher number only because of the budget amount used.

6. Other Business

Resolution No. 832 – Slate of Officers/Committee Appointments

The Agency Board nominated the following Slate of Officers:

Chairman: W. Nussbickel
Vice-Chairman: D. Petrovits
Treasurer: S. Tinkelman
Secretary: D. Lois

A motion to accept the Slate of Officers was made by D. Lois, seconded by W. Nussbickel and unanimously carried.

The Agency Board nominated the following Committee Appointments:

Finance Committee Members; S. Tinkelman, D. Petrovits, and J. Senft
Audit Committee Members: D. Denisoff and D. Lois
Governance Committee Members: D. Denisoff and D. Lois

A motion to accept the Committee Appointments was made by D. Lois, seconded by W. Nussbickel and unanimously carried.

A motion to adopt Resolution No. 832 – Slate of Officers/Committee Appointments was made by D. Lois, seconded by W. Nussbickel and unanimously approved.

Resolution No. 833 – Audit Committee Charter Amendment

The Interim Executive Director is authorized to amend the Adopted 2008 Audit Committee Charter, as per recommendation from the NYS Authority Budget Office. The references to the Inspector General are to be deleted since the State Inspector General does not have jurisdiction over the Agency.

A motion to adopt Resolution No. 833 – Audit Committee Charter Amendment was made by W. Nussbickel, seconded by D. Lois and unanimously carried.

Resolution No. 834 – Authorization to Retain Legal Malpractice Counsel

The Interim Executive Director was authorized by the Board at the April 20, 2017 board meeting to retain special counsel to investigate the viability of certain claims related to professional services rendered to the Agency. The Agency is authorized and directed to retain Daniel L. Abrams as special counsel to investigate the viability of certain claims relating to professional services rendered to the Agency for a fee of \$400 an hour for a total of twenty-five hours, or \$10,000. If the matter is not settled within the first 25 hours, a contingency fee of 1/3rd of the net recovery will be billed, unless settled within ninety calendar days of filing of the initial complaint, in which case the contingency fee will be 1/6th of the net recovery. A motion to approve Resolution No. 834 – Authorization to Retain Legal Malpractice Counsel was made by W. Nussbickel, seconded by D. Petrovits and unanimously carried.

- 7. Executive Session** – A motion at 5:45 pm to move into Executive Session was made by D. Petrovits, seconded by S. Tinkelman and unanimously carried to discuss proposed, pending or current litigation.

The meeting resumed back to public session at 5:55 pm.

With no further business to discuss at 5:56 pm a motion to adjourn the meeting was made by D. Petrovits, seconded by W. Nussbickel and unanimously carried.