

DUTCHESS COUNTY RESOURCE RECOVERY AGENCY

AUGUST 19th, 2010 – 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 W. Conners, Chairman; E. Mills, Vice Chairman; R. Mosca, Secretary; D. Nestler, Treasurer; Board Members, T. E. LeGrand, R. Stephen Lynch and E. Kinkade; Agency Staff, W. J. Calogero, D. Walsh and C. Tamney; Agency Counsel, J. Nelson; D. Leibnitz, HDR; R. Chance and B. Connolly, Covanta Hudson Valley Renewable Energy LLC; A. Surman, S. Goldberg, and J. Tyner, Dutchess County Legislators, M. Cahill, Germano & Cahill; H. Arnold, Gerhardt, LLC; K. Hart, Cablevision; R. Carlson, and S. Womer.

- 1. Regular Session** – Chairman W. Conners called the meeting to order at 5:08 pm.
- 2. Minutes** – Chairman W. Conners presented the minutes of the July 15th, 2010 Board Meeting. A motion to approve the July 15th, 2010 minutes was made by E. Mills, seconded by D. Nestler and unanimously approved.

E. Kinkade inquired about the bond reserve funds and asked W. Calogero if he had any recommendations. W. Calogero responded that he was in contact with the Capital Market financial advisors and is still waiting to hear back on a few items. It was agreed to schedule a Finance Committee meeting to further this discussion. With reference to a letter sent to the State Authority Budget Office concerning some issues in the audit, E. Kinkade requested that in the future any response to a report that is addressed to the Board be reviewed by the Board before going out. W. Calogero replied that the State Authority Budget Office requested a general update from him, not the Board. R. Stephen Lynch agreed with E. Kinkade that any response to the State Authority Budget Office deserves board-level attention.

- 3. Operating Report** - D. Walsh informed the Board that the monthly budget set for July was not met. The Facility received 12,044 tons of waste where the budget was set for 12,712 tons, making the Facility short of the monthly budget by 668 tons. The Facility still remains over budget on the year-to-date amount of incoming tonnage. Actual year-to-date incoming tonnage was 91,136 tons which is over budget by 7,116 tons. There were a few shutdowns in July that resulted in less electrical generation. The total electricity generated for the month was 3,341,120 kwh for a total revenue amount of \$200,467.20.

The recyclables brought into the MRF for July totaled 497 tons. This volume was low. Hudson Baylor did not contribute as much in commingled recyclables as in the past months. Tipping fee revenues were \$5,215.00 and market sharing with Hudson Baylor resulted in \$5,882.89.

The most recent Household Hazardous Waste Day was on August 7, 2010 in Amenia and had 40 attendees. Chairman W. Conners stated that there was 840 gallons of chemicals which cost the Agency \$2,660.00 to dispose. The tally on the electronic waste and light bulb collection has not been received yet. On the Prescription Disposal Day for residents in August there was 56 pounds of medications collected. A new bill that has passed the Senate will

allow increased takeback programs for controlled substance medications that would normally require structured drug enforcement administration approval. E. Mills acknowledged the Agency for getting a jump start on the medications disposal program. Having such a program at the Resource Recovery Facility is the most environmentally sensible procedure that can be done to help keep the pharmaceuticals from being flushed down toilets and drains and out of the water system.

4. **Clean Air Update** – D. Leibnitz informed the Board that the availabilities on Unit Nos. 1 and 2 since the date of the last board meeting on July 15th, 2010 were 80.3 and 81.8 percent respectively. Turbine generator availability was 94.7 percent. The availability of all equipment at the Facility was seriously affected by the macroburst recorded by the National Weather Service on Monday, August 16th from 3:00 pm until 3:20 pm. During this time the Facility was struck by lightning numerous times, tripping off equipment and resulting in events of instrumentation and control failure. In addition to problems that were caused by the severe weather, both boiler units experienced outages to repair a few tube leaks, an ID Fan bearing failure on Unit No. 2 and conveyor malfunctions servicing both units.

At the present time Unit No. 1 is off line to repair a waterwall tube leak. It is scheduled to come back on line this evening. The steam set point for Unit No. 2 is 55,000 pph. Steam generation was at a short term temporary low due to recent feeding of some wet waste.

The current update for the monthly summary table of various performance characteristics was explained. HDR will continue to update and distribute this table at the monthly board meeting.

HDR reviewed and commented on the first semi-annual Title V Compliance Certification Report and the semi-annual Ash Sampling Report. HDR has also continued communication with the NYSDEC to acquire approval of the Facility's updated Part 360 Permit's O&M Manual.

Covanta's stack testing firm obtained the third quarterly grab samples for greenhouse gases. The results find 61 percent biogenic carbon dioxide (from biomass, considered carbon neutral) and 39 percent anthropogenic carbon dioxide (from fossil fuel and man-made materials). These results are consistent with the results from the first two quarterly tests.

Covanta has scheduled the fall outage to start on September 26th and to run through October 5th. Major activity includes the replacement of the superheater on Unit No. 1, the replacement of the bottom ash conveyors for both units and the installation of the new oil cooled transformer purchased this past winter. Covanta also plans to upgrade the Facility electrical metering.

5. **Agency Financial Report** – C. Tamney presented the payables in the amount of \$1,114,067.30. R. Stephen Lynch questioned the Germano & Cahill bill for \$24,141.31. He recalled the cost of the contract with Germano & Cahill and it's not-to-exceed cost of \$38,000.00 unless it was to go to economic analysis or responding to NYSDEC comments. He asked if they were going to meet all that \$38,000.00 or has the Agency not hit that not-to-exceed number. M. Cahill responded that they have indeed hit that number. Presently, the July bills are being prepared and are adding up to be \$41,000.00. This covers the amount of

work done. Since they began their work they have delivered the original draft of the proposal on the July 12th deadline as required and have incorporated a number of comments received from the County and Agency staff that led to the preparation of the current report. They met with NYSDEC whom were very stern about the timing, about what they expect from the report and the way it should be submitted. A potential schedule has been prepared for further receipt of comments, incorporation of the comments into the plan, for submission back to the Agency Board and to the County Legislature all that is consistent with the regularly scheduled meetings of both the Agency Board and the County Legislature between now and the end of the year. R. Stephen Lynch again questioned the details of the contract price and what the charges include. J. Nelson narrated the exact words in the contract. "The total hourly charges, including disbursements, shall not exceed: a) \$38,000.00 for preparation of initial draft LSWMP including receipt and incorporation of Agency and County comments, and shall not exceed; b) \$11,000.00 for estimation of revenue and expense impacts of LSWMP components, and shall not exceed; c) \$59,000.00 in the aggregate for all services and disbursements provided under this contract. Any additional charges must be approved by the Agency Board in advance." R. Stephen Lynch asked if the consultants were going to live up to that \$38,000.00. M. Cahill responded yes, however, the Board should consider modifying the amounts in order to give them the work operating under the main cap that would probably get them through to December. The original idea was that they submit the initial draft and get comments. They did get some comments and it looks like they are going to get a lot of comments from a lot of people including the public. They can continue to prepare the report with the Agency and the public and Agency comments and Legislature comments but they will not be as readily available as they have been. Their thought was that if the Agency considers it, they would operate under the main cap. R. Stephen Lynch restated what the consultants previously said, which is if the Board does not extend the not-to-exceed prices you will not be as readily available as planned? The Board spent so much time on the not-to-exceed prices in the contract so that it would be clear. This report is substantially similar to the \$70,000.00 report that was paid a year ago. E. Mills stated that this meeting is presently focusing on the bills presented and that the future of this contract should be discussed as a separate agenda item. This \$24,141.31 represents work that has been done. R. Stephen Lynch disagreed to pay Germano & Cahill because they are not effectively working against the not-to-exceed contract price of \$38,000.00. E. Mills confirmed, with RRA staff present, that this bill of \$24,141.31 does contain a detailed description of hours and work that has been done.

E. Mills asked about the Vernon Company charge and what the tote cloth bags were for. C. Tamney responded that they are promotional give aways for the public at Household Hazardous Waste days, Earth Day and other events. E. Kinkade asked about the Drake & Loeb bill and if we were going to get an update. W. Calogero replied that he has been in contact with J. Loeb and he has been in touch with the Town of Poughkeepsie. There has been no further advancement on what he has already reported on. R. Stephen Lynch requested that J. Loeb come in anyway as he found his last visit to be very informative. It would also give E. Kinkade a chance to get up to speed on the items paid in the past that we are trying to get back.

E. Kinkade spoke about the Accounts Receivable Aging Report and substantial balances for the same two parties. W. Calogero referred to the Agency's billing cycle; Royal is always

consistent with their payments and paying within 30 days, and the Hudson Baylor balance listed has been paid since this Aging Report was printed.

A motion was made by R. Stephen Lynch, seconded by E. Kinkade to pay the bills with the exception of the Germano & Cahill bill and immediately address this issue separately in the context of are they going to stand by their not-to-exceed costs or not. E. Mills stated that he will vote against this motion because it is again talking about a bill for services rendered and that is part of all the bills that are presented here. When the Board talks about the future of the contract and expenses down the road, it is something that is completely separate from the services of what these consultants have already provided. The Board contracted with these consultants and they have met their requirements to date and presented paperwork that satisfies our bookkeeper as far as payables go.

Roll Call Vote:

	<u>YES</u>	<u>NO</u>
T. E. LeGrand		√
R. Stephen Lynch	√	
D. Nestler		√
R. Mosca		√
E. Mills		√
E. Kinkade	√	
W. Conners		√

Motion denied.

A motion to approve the payables in the amount of \$1,114,067.30 was made by E. Mills, seconded by T. E. LeGrand.

Roll Call Vote:

	<u>YES</u>	<u>NO</u>
T. E. LeGrand	√	
R. Stephen Lynch		√
D. Nestler	√	
R. Mosca	√	
E. Mills	√	
E. Kinkade		√
W. Conners	√	

Majority approved the payables in the amount of \$1,114,067.30.

Chairman W. Conners asked if there were any questions pertaining to the Profit and Loss Analysis worksheet. R. Stephen Lynch asked if there is an estimation on how many tons of waste was not processed and how much money it cost the taxpayer during the plant's performance problems in July. D. Leibnitz gave the details on the amount of tons combusted

in July compared to other months. There was roughly a 1,500 - 2,000 ton difference. R. Stephen Lynch calculated the 2,000 ton loss multiplied by an average tipping fee charge of \$70.00/ton making it a loss of \$140,000.00 and followed with a 1,500 ton estimation making it a loss of well over \$90,000.00 for the month of July. W. Calogero stated that the only loss encountered was in the electrical revenue. All the waste was still received, the revenue from tipping fees was still received, and there was no processing charge from the operator for the waste that was not burned. R. Stephen Lynch replied that the way the waste-to-energy industry would look at this is that when you burn less trash it causes your pit inventory to go up and if it continues you get to a point where you take less trash in. Several replies back were that the Agency did not turn any waste away. D. Leibnitz added that waste combusted and waste going across the scale are two different numbers. Waste combusted has no value until it makes electricity.

E. Kinkade spoke about the Balance Sheet and the Profit and Loss Financial worksheets and made a motion to begin to have each one discussed during the regularly scheduled board meetings. E. Mills asked what in particular he was looking for, a line item discussion or for management to prepare a written report in advance. E. Kinkade replied that he is looking for a discussion on any major changes from month-to-month. E. Mills suggested on the monthly board meeting agenda to add on to the Agency Financial Report, a 4A) Discussion of Profit and Loss. E. Kinkade replied that he is just looking to see the basic financial management practices that occur in every operation and that management, W. Calogero, is prepared and does present any significant changes that happen from month-to-month, that he presents any significant departures from the budget and that it becomes a routine part of the Board's regular meeting. E. Kinkade restated his motion to have W. Calogero each month formally discuss the income statement and balance sheet for any significant changes from the previous month, any significant changes from the budget, and explain what those changes are, what is happening in the future, and what is going on financially. The motion was seconded by R. Stephen Lynch and unanimously approved.

T. E. LeGrand asked about the City of Poughkeepsie's payment structure and both Dyal and Hess past due balances. Hess has been banned from the facility for their delinquent account balance. They are submitting \$1,000.00 per month payments until their account is paid in full. T. E. LeGrand suggested trying to have them increase their payment to \$2,000.00 per month. Dyal has been out of business and many of the company's assets still have not been resolved.

E. Kinkade asked why the debt principal payments are included in the Profit and Loss Analysis statement. This is highly unusual. W. Calogero will check with Sedore and Company.

The Agency budget is due in approximately 45 days to the State Authority Budget Office. The Finance Committee will need to meet beforehand. R. Mosca asked if we had an engagement letter from Sedore and Company. The Agency did not receive an engagement letter. R. Stephen Lynch replied that we already voted to RFP all professional services at the last meeting. There was some uncertainty as to if it was actually voted on and different interpretations of that motion. Was the motion made only to accept a committee to review the Procurement Policy, or did it also include to RFP all professional services as well. At next month's regularly scheduled board meeting the section of the audio tapes pertaining to this

discussion will be reviewed. It was mutually agreed that the scope of service for an audit needs to be reviewed by the Committee for a potential audit RFP.

- 6. SEQRA Resolution -** Chairman W. Conners moved to accept the SEQRA Resolution that was revised from the last board meeting. It specifies the intent for the Agency to be lead on the environmental review. J. Nelson handed out a copy of the Resolution that was proposed at the last meeting noting the few minor changes. R. Stephen Lynch remarked that it is the lead agency that is the one that decides if you have a negative or positive declaration. Negative declaration meaning that there is not enough environmental impact to warn a full environmental impact statement and positive declaration meaning that there are substantial environmental impacts and a need to have a full environmental impact statement; which is a huge, expensive and lengthy undertaking. E. Mills reminded the Board that it is important to know that this SEQRA process involves this plan and that anything that results out of the plan, as building a new MRF or doing substantial construction changes on the waste-to-energy facility, would require separate SEQRA reviews. The consultants would be the ones that would advise the lead agency on the declaration in conjunction with the staff recommendations. E. Kinkade asked why this is important to do at this time. J. Nelson replied that the SEQRA regulations state that you are required to start the environmental review process as soon as you can. Discussion concluded with R. Stephen Lynch insisting on the Agency not to be the lead agency and preferring the process be delayed until next month.

A motion was made by D. Nestler, seconded by R. Mosca to adopt Resolution No. 699 to declare the Agency the intent to act as lead Agency on the Solid Waste Management Plan. E. Mills asked that the notices to the potential involved agencies be sent by certified return receipt mail.

Roll Call Vote:

	<u>YES</u>	<u>NO</u>
T. E. LeGrand	√	
R. Stephen Lynch		√
D. Nestler	√	
R. Mosca	√	
E. Mills	√	
E. Kinkade		√
W. Conners	√	

Majority approved Resolution No. 699 – SEQRA Review – Local Solid Waste Management Plan.

- 7. Solid Waste Management Plan -** The Solid Waste Management Plan draft was reviewed. As requested at the last meeting, W. Calogero sent the draft plan to the County Legislature and to the County Executive. Both M. Cahill and H. Arnold met with the NYSDEC. The NYSDEC emphasized how important it is that this new local solid waste management plan be in place and approved by them by the first of the year. The Facility operating permit cannot be renewed until there is an approved plan by NYSDEC. Chairman W. Conners also stated that when he

met with K. Brezner of Region 3 NYSDEC he too was very adamant about December 31st being the final date.

M. Cahill and Agency counsel had developed an extensive outline of how this public comment and public hearing process can occur over the next three to four months. M. Cahill recited the dates and gave an explanation of the devised timeline. There will be a 45-day period for public comment. It will run from September 1st through October 15th. Comments may be received by mail or by e-mail. A separate e-mail address will be established for these comments. T. E. LeGrand asked how would it be determined if the Agency or the County is to hold the public hearing. M. Cahill suggested that Chairman W. Conners consult with County leadership. As far as approval, they anticipate the full legislature to pass on the approval of the plan by December 7th and if approved by the County and Agency it be immediately sent to the NYSDEC for formal review.

More discussion developed regarding the consultant's contract. The contract doesn't specify the number of meetings the consultants would come to if payment is stopped. M. Cahill stated that when they responded to the RFP, when the contract was drafted up, they assumed that they would draft up a plan, submit it to the Agency, submit it to the County, get comments back, and incorporate the comments into a document that would then go out for public comment and to NYSDEC for review. There have been some comments from the Agency, some comments from the County and they have incorporated them in what they have. They are looking now at a schedule that NYSDEC has informed them that they better follow. As of December 31, 2010 if there is no plan in the NYSDEC hands, the RRF will not be in compliance, it will be operating under a non-approved plan. Any renewal application will not be considered until the plan is in and approved. Their authority was reminded that they would have the ability to direct waste facilities in New York to reject waste originating in planning units without plans. R. Stephen Lynch replied that the NYSDEC would not shut down burn plants if the planning unit is working on their plan. He believes it is a bit of a fear tactic. He thinks the consultants are doing a great job although he disagrees with their proposed plan. He doesn't doubt that their invoices are completely accurate and truthful but they won a competitive request for proposal based upon a price that should be held. This idea that NYSDEC is "real firm" is just not true. There are a lot of things the NYSDEC would like but they don't get everything they like. He assures that the NYSDEC is not going to close down the RRF or anyone else as long as they are working on a plan whether it be February, March, or April before the permit is expired. The solid waste management plan is too important to rush.

M. Cahill replied that if you want us to take whatever comments the Agency and County has and incorporate them into the plan, they are happy to do it and have indeed done that this far. If that process is going to proceed any notice and comment from the public, it is virtually certain that the December 31st deadline will not be met because of the schedules that the lead Agency and the County Legislature has. Again, the conversations with the NYSDEC were very strong.

R. Stephen Lynch continued to inquire more about the contract price. H. Arnold explained that if you want to go by the strict adherence of the contract then you would ask W. Calogero to

consolidate all your comments, send these comments back to them, figure out how you want to get the comments from the County and send those back comments to them. They will do the response and submit a public work that will complete their contractual obligation. The second option, under the Board consideration, would be to work under the overall cap, not go over it, and track through the process that M. Cahill started to outline. M. Cahill added that the contract says the overall cap is \$59,000.00 and that is what they would hold it at. They knew they were going to respond to NYSDEC, they just didn't know the amount of time it was going to be. They agreed to do the initial submission and initial draft. After that it was on an hourly basis except for the one separate item in the RFP, the financial analysis, and if that was ordered and directed, there would be a cap on that of \$11,000.00. With or without the financials it is an overall cap of \$59,000.00. R. Stephen Lynch and E. Kinkade disagreed and referred back to the way the contract was written. The interpretation of the contract was discussed.

Board members raised concern over the tight schedule. Chairman W. Conners will set up a meeting with the Chairman of the Legislature to formulate a potential schedule. Chairman W. Conners also requested that when, and if, the Board decides to move forward with the plan, the Agency needs to set up a separate electronic mail box where anything regarding the plan would be received. The plan is to be made available on the website. There will be a meeting with the County Legislature, the Board will be talking about the plan again and the plan should be made available in the Mid Hudson Library system and should be sent to surrounding jurisdictions.

A motion to accept the draft plan and begin the process was made by D. Nestler, seconded by R. Mosca. E. Kinkade thought the entire process was subverted because the solid waste management plan was done in two stages. There was a contract over a year ago, a study of a user fee and flow control that went to Germano & Cahill. Then there was an RFP that was cut to a very short window for a solid waste management plan. At that time, he had remarked that if these same people get it, he knows what the conclusions will be. The recommendations are identical, just slightly rearranged. The entire RFP process was so short circuit that there weren't really any competitive bids. If there was more of a legitimate RFP length of time for a consultant to study this area and get what we were asking for, they could have come back with a competitive bid. The Board granted a competitive bid based upon the \$59,000.00 which if you add it up to the \$60,000.00 that was spent last year, is actually more than what the other two competing bids were. He thinks that the Board has not done justice to the Agency and to the taxpayers of Dutchess for the way that it was handled. E. Mills stated for the record that there was a competitive process done and there were a few responses.

Chairman W. Conners remarked about the working group of the County Legislature and how they came out with a report that was not nearly in depth as he thought it would be and some of the conclusions were obvious and not any different from what has been previously mentioned. T. E. LeGrand commented that part of the late start was the fact that the two branches of the County Government did not give approval to move forward with the plan. He also noted how important it is to recognize that the NYSDEC has certain guidelines that must be followed. R. Stephen Lynch agreed with E. Kinkade that it has been a complete deficient process with not

enough time and that this Board should not be the entity that should be managing the solid waste management plan. He too will be voting no as well.

It was unanimously agreed that the Finance Committee will review the Germano & Cahill contract. Chairman W. Conners did remind the Board that the final decision rests with the Board.

J. Nelson repeated the motion to accept this draft report and start the process and clarify E. Mills's modification about how the review and comment schedule should be in concurrence with the County Legislature. E. Mills restated that he wants the leadership of the County Legislature to be in agreement with the timeline for implementation of this plan. The modified motion to accept the draft plan and to begin the process was made by D. Nestler.

Roll Call Vote:

	<u>YES</u>	<u>NO</u>
T. E. LeGrand	√	
R. Stephen Lynch		√
D. Nestler	√	
R. Mosca	√	
E. Mills	√	
E. Kinkade		√
W. Conners	√	

Majority approved the Draft to the Local Solid Waste Management Plan and to begin the process.

- 8. Public Comment** - Legislator J. Tyner requested a copy of the new draft plan from the County Legislator and was redirected to the Agency. He was informed that the draft will be posted on the Agency's website next week. Chairman W. Conners will see that there is a copy made. W. Calogero handed a copy of the Executive Summary to the Draft Local Solid Waste Management Plan to Legislator J. Tyner.

With no further business to discuss, at 7:25 pm a motion to adjourn the meeting was made by D. Nestler, seconded by E Mills and unanimously approved.

Respectfully submitted,

William J. Calogero
Executive Director