

DUTCHESS COUNTY RESOURCE RECOVERY AGENCY SEPTEMBER 16TH, 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; D. Nestler, Treasurer; R. Mosca, Secretary; Board Members, T. E. LeGrand and R. Stephen Lynch; Agency Staff, W. J. Calogero, D. Walsh and C. Tamney; J. Nelson, Agency Counsel; B. Connolly, Covanta Hudson Valley Renewable Energy LLC; D. Leibnitz, HDR; A. Surman, S. White, and J. Tyner, Dutchess County Legislators, N. Seldman; Mr. Bray, and Board Member E. Kinkade participated via telephone.

- 1. Regular Session** – Chairman W. Conners called the meeting to order at 5:06 pm.
- 2. Minutes** – Chairman W. Conners presented the minutes of the August 12th, 2010 Special Board Meeting. E. Mills had a few changes. On Page 1, Paragraph 4, insert the word “involved” before the word agencies in two separate sentences and on Page 2, Paragraph 1, the “County Clerk” should be replaced with the “Clerk of the Legislature.” R. Stephen Lynch also changed on Page 3, Paragraph 2, the sentence that reads, “The capital expense would be covered from the revenue of the sales of materials” to “The capital expense would be covered from additional user fees.” On Page 4, last paragraph, eliminate the word “not” in the sentence that reads, R. Stephen Lynch made a motion not to post it on the website and add the word “and” make it available for any citizen that may want it. A motion to approve the amended minutes was made by E. Mills, seconded by D. Nestler and unanimously approved. T. E. LeGrand abstained.

Chairman W. Conners presented the minutes of the August 19th, 2010 Board Meeting. E. Mills requested on Page 3, 1st Paragraph, to insert the words “with RRA staff present” to the last sentence confirming the bill of \$24,141.31 and on Page 4, 1st Paragraph, last sentence, delete the word “finance debts” and replace it with the word “bookkeeper.” On Page 9, 3rd Paragraph, 2nd sentence, replace the word “concurrent” with “in agreement.” R. Stephen Lynch noted on Page 3, 1st Paragraph, the discussion about the contract price of \$38,000.00. He wants it to be made clear that what he stated was not his point but the consultants and therefore would like the sentence to be reworded to be understood that way. On Page 6, before Paragraph 6, E. Kinkade would like to add a few sentences regarding the scope of the audit. After it was read, there was some uncertainty from other board members to this addition. It was decided that it would be necessary to review the audio tapes at the next board meeting to determine exactly what is to be added. In the meantime, the engagement letter which contains a scope of the audit will be provided to E. Kinkade and if the original scope of service for the audit is located it too will be provided to E. Kinkade. In Paragraph 6, E. Kinkade would like to add, “at this time” to the end of the sentence that reads, E. Kinkade asked why this is important to do. A motion made by D. Nestler to adopt the August 19th, 2010 minutes was withdrawn and the August 19th, 2010 minutes will be presented again at the next board meeting.

3. Operating Report – D. Walsh

D. Walsh informed the Board that the budget set for the month of August was not met. It was set for 13,217 tons and the Facility received 12,700 tons, short on tonnage of 517 tons. The year-to-date figure still remains ahead of the budget by 6,599 tons. Presently the pit is full and September 26th, 2010 is still on schedule for the outage.

Electrical generation was lower as expected due to the severe weather conditions in August that caused the Facility to be struck by lightning numerous times, tripping off equipment that brought both boiler units down. Total electricity generated was 3,325,980 kwh that resulted in a revenue of \$199,558.80.

R. Stephen Lynch reminded the Board that even if the budget is met it results in a 6.1 million dollar net service fee for 2010. E. Mills remarked about how the budget provides a target for the staff to reach and how the net service fee is a large figure that has so many variables that come into play.

The recyclable materials incoming volume increased for August to 611 tons which inflated the tipping fee revenue to \$5,495.00 and revenue sharing for market sales was \$7,011.48. The MRF Facility continues to fall behind on volume.

4. Clean Air Update – D. Leibnitz

Since the date of the last board meeting until today the availabilities on Unit Nos. 1 and 2 were 90.4 and 99.8 percent, respectively. Turbine generator availability was 99.2 percent. At the present time Unit No. 2 is running at a reduced rate due to fouling and is scheduled for a quick boiler wash tomorrow to bring the performance up until the unit is shut down for the scheduled fall outage. Presently, HDR observed the Facility producing 78,000 pph of steam and generating 6.8 MW of power with the pit full with approximately 3000 – 3200 tons of MSW.

An update of the monthly summary table of various performance characteristics was provided and explained.

HDR has continued communication with NYSDEC related to the updated Part 360 Permit Operations & Maintenance Manual.

Covanta's stack testing firm is scheduled to make the fourth quarterly grab samples for greenhouse gases in October.

The extensive outage will start September 26th and run through October 3rd. Covanta plans on replacing the primary superheater on Unit No. 1; replacing the bottom ash conveyors for both units; installing the 13.8kV to 480V oil cooled transformer purchased this past winter; replacing both stack flue exit nozzles; doing upgrades to the Facility electrical metering, and

conducting detailed ultrasonic thickness testing in the main steam generating sections of both units with any necessary repairs.

5. Agency Financial Report – C. Tamney

C. Tamney presented the payables in the amount of \$2,054,673.24. E. Mills asked about the Germano & Cahill bill for \$10,566.63 and where does it put the Agency in the overall amount paid to them for the solid waste management plan contract. C. Tamney responded that it would make it just under \$35,000.00. E. Kinkade remarked about the meeting of the Finance Committee and how they recommended that the consultants should be held to the \$38,000.00 until the solid waste management plan document has been reviewed by the County and deliverable to the NYSDEC. To make any further payments towards the \$38,000.00 would not be appropriate and that payment in his opinion should be held back pending completion of the contract that the consultants agreed to. R. Stephen Lynch added that this was a unanimous recommendation of the Finance Committee.

A motion to approve the payables, minus Germano and Cahill's bill for \$10,566.63, in the amount of \$2,044,106.61 was made by E. Mills, seconded by D. Nestler and unanimously approved.

The Accounts Receivable Aging Report was reviewed. W. Calogero reported that the business of Hess Hauling has been sold and their outstanding balance with the Agency has been paid in full. Dyal is listed as an open account with an aging balance. Since Dyal has been out of business for over two years, and there appears to be no potential monies coming in from the Agency's judgment, it was suggested that the Agency should look into writing that account off their books.

The Profit and Loss worksheet was reviewed. W. Calogero reported that there was not much change from last month. He explained a few expense line items and what the details were of the balances. E. Kinkade asked the reason why the operator service fees are running ahead of budget for the year. W. Calogero responded that the Agency has not had the service fees attached to some of the additional tonnage that came into the Facility in the beginning of the year. E. Kinkade asked about line item 9217 debt service principal – bond 1999A. W. Calogero spoke with Sedore and was informed that the balance is included because of the net service fee calculation and that in some cases the profit and loss statements show depreciation rather than debt service but in our case we do not show that depreciation in that calculation. It has been done this way prior to Sedore.

The Balance sheet was reviewed. E. Kinkade asked about the accumulated depreciation amount that is up by roughly \$100,000.00, and that it should have to go through the income statement as an expense item. C. Tamney responded that depreciation is not included in the Agency income statement and T. E. LeGrand replied how the government reports depreciation differently and how it does not look at it as an expense. R. Stephen Lynch noted that two publicly owned waste-to-energy plants that he is involved with, one in New York State and the second one in Connecticut, do list depreciation in their audit statements. It is listed in both their

balance sheet and income statement. It was further discussed that the Agency should consult with Sedore for clarification. A motion was made by T. E. LeGrand, seconded by E. Mills to consult with Sedore to see if the Agency is projecting this item correctly in the reports and have Sedore provide a written comment for the Board by the next scheduled board meeting.

6. Other Business

W. Calogero spoke about the public hearing meeting for the solid waste management plan that is scheduled for September 28th, 2010. He suggested that a stenographer be brought in for that meeting. After checking with a few sources, the fee for a stenographer would vary between five and six hundred dollars. E. Mills inquired if the Board should set that public meeting. J. Nelson explained how Chairman W. Conners spoke with the leadership of the County Legislature and how they deferred from being the body conducting the hearing and that there was prior discussion in the minutes about proceeding with the process. After getting the notice out about the comment period, a notice of public hearing for September 30th, 2010 was sent out for publication after the meeting with the Legislature Monday evening. Legislator S. Goldberg pointed out that it was a religious holiday. Therefore, revised notices were changed with the exception of one which went out for publication, but is in the process of being amended. The public hearing has been set for September 28th, 2010 at 7:00 pm at the Resource Recovery Agency offices.

E. Mills recommended a resolution for the public hearing be made since the Agency will be hosting the meeting. Chairman W. Conners confirmed that the Legislature will not be hosting the meeting as he received a note from the Legislature stating that that would prefer the Agency to do the meeting. R. Stephen Lynch stated that he will be voting against the Agency hosting the meeting since he believes the entire plan should be changed and the process be slowed down. E. Mills expressed his frustration that the Legislature has decided not to come to the table as a full partner since we are only a group of citizens and they represent the entire electorate of Dutchess County.

E. Mills made a motion to set a public hearing to discuss the draft of the solid waste management plan for Dutchess County to take place on September 28, 2010 at 7:00 pm local time at the offices of the Resource Recovery Agency, 96 Sand Dock Road, Poughkeepsie, New York and to direct the Executive Director to advertise the same in the newspaper. The motion was seconded by T. E. LeGrand.

Roll Call Vote:

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

Majority approved.

E. Kinkade expressed his opinion that no such meeting should occur; however, for the purpose of the record his vote could not be counted. He replied that he should be entitled to vote especially since he read the bylaws and attendance by telephone is considered to be attendance in person. Discussion continued about the bylaws and if they are consistent with state laws. J. Nelson suggested that if the Board would like him to prepare a revision to the bylaws, he is willing to do it.

E. Mills made a motion to have the Executive Director employ the services of a stenographer for the purposes of taking minutes of the upcoming public hearing on the solid waste management plan and to include the preparation of a transcript from said minutes. The motion was seconded by D. Nestler.

Roll Call Vote:

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

Majority approved.

E. Kinkade expressed his opposition in having the meeting but agreed that it should be recorded. E. Mills mentioned that the written transcript should be made available electronically as well so that it may be posted on the website.

7. Public Comment

Mr. Bray of 232 Wilbur Boulevard in Poughkeepsie stood up and spoke about his residence where he has lived at for 23 years. His chimney flue nozzles had to be replaced after nine years, his rock wall is all black from acid, his aluminum siding is pitted as well as the soffit, and there are days when he goes outside and has to wipe the dust off his car. He was speaking for the people that live in this community along with their children. He was concerned over the air emissions from the Facility and inquired if anyone has ever done a study on the downstream effect with cancer for this area. Chairman W. Conners remarked that he has never had a complaint from anyone before about soot or acid problems and that perhaps it is caused by his oil burner soot. E. Mills added that the air quality is not only influenced by the Resource Recovery Facility but other industries in the area as, for example, Metro-North Railroad and Central Hudson. He believes that the County Planning Department through their transportation council gets involved with air quality issues and may have database information

readily available containing air quality. Mr. Bray was then presented with data from the Facility's recent air compliance test which shows the Facility runs between ninety three to ninety nine percent below the allowable emissions levels set forth by the NYSDEC. At the request of the Board, D. Leibnitz will follow up and visit Mr. Bray at his residence and look into his concern.

N. Seldman that works with the Institute for Local Self-Reliance in Washington, DC spoke. He attended this meeting at the request of Legislator J. Tyner. His suggestion was to assign some staff time to read some of the best practices for state-of-the-art planning that is going on around the country, referred to as zero waste planning. He can refer the Agency to five or six cities that have plans of implementing them with great success. If this County were to start seriously recycling it would bring in three to four hundred jobs and he knows that many of the technologies in businesses that will be creating those jobs have already started dealing with a lot of different materials.

Having the public hearing meeting take place at the Agency offices was discussed because of the limited space. T. E. LeGrand suggested contacting Dutchess Community College for use of its facility.

Legislator J. Tyner thanked W. Calogero for agreeing to meet with N. Seldman the following morning on such short notice. He made reference to a Poughkeepsie Journal article written by M. Pfeiffer on March 7th about the emissions that said the particulate matter, nitrogen oxide, and volatile organic compounds have increased from this incinerator in the last decade. It did report some decreases in emissions as well. D. Leibnitz disagreed with that statement and asked for a copy of the article so that he may report back his findings at October's board meeting. Legislator J. Tyner mentioned the zero waste coalition that has formed all across the state that is pushing for eighty-five percent recycling rates by 2020 and proceeded to talk about the Agency's solid waste management plan draft. Chairman W. Conners asked that those concerns and comments about the solid waste management plan be sent in by mail or via e-mail as previously mentioned.

8. Committee Reports

The Finance Committee met on the issue of the Germano & Cahill contract. Chairman W. Conners spoke about the mannerism displayed at the last board meeting with the two consultants. In his opinion, it would be best to discuss their contract in attorney-client session. T. E. LeGrand also remarked on the disgraceful way the consultants were treated last month. The Board has been in disagreements with vendors in the past and the policy was to beat the debate gentlemanly, which wasn't the case at last month's meeting. He also feels that their contract should be discussed in closed session, not public session, to spare the consultants any further embarrassment. R. Stephen Lynch disagreed since he felt that the consultants were not treated with disrespect. Board members have a fiduciary responsibility to the taxpayers to hold any contract to the terms of their competitively procured contracts. The contract was not all clear. It was not meant to embarrass anyone, it was not unprofessional, and in his opinion has been totally mischaracterized.

9. Attorney-Client Session

E. Mills made a motion, seconded by T. E. LeGrand and was unanimously approved to move into Attorney-Client session at 6:50 pm to further discuss the specifics related to a current contract with Germano and Cahill.

T. E. LeGrand excused himself from the meeting at 7:10 pm.

A motion to move into regular session at 7:20 pm was made by E. Mills, seconded by D. Nestler and unanimously approved.

Agency counsel requested to move briefly into attorney-client session at 7:25 pm. Resumed regular session at 7:28 pm.

A motion was made by R. Stephen Lynch seconded by E. Mills to pay Germano & Cahill ten percent of their current bill for \$10,566.63 and to not make any further payment towards Paragraph A tasks until those tasks are complete as per the intent of the Finance Committee.

Roll Call Vote:

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

Motion denied.

A revised motion was made by D. Nestler, seconded by R. Stephen Lynch to pay fifty percent of the Germano & Cahill current bill of \$10,566.63. All voted in favor as proposed by roll call vote.

A revised motion to approve the payables for the adjusted amount of \$2,049,389.92 was made by R. Mosca, seconded by E. Mills and unanimously approved.

With no further business to discuss, a motion at 7:35 pm to adjourn the meeting was made by E. Mills and unanimously approved.

Respectfully submitted,

William J. Calogero
Executive Director