

MINUTES OF MEETING
DELAWARE SOLID WASTE AUTHORITY
BOARD OF DIRECTORS

DATE: October 24, 2012

LOCATION: 1128 S. Bradford St.
Dover, DE

TIME: 5:00 p.m.

ATTENDEES:

DIRECTORS

Richard V. Pryor
Ronald G. McCabe
Timothy P. Sheldon
Tonda L. Parks
Gregory V. Moore

STAFF

Pasquale S. Canzano
Anne M. Germain
John J. Lechner
Logan V. Miller

LEGAL COUNSEL

Michael Parkowski

GENERAL PUBLIC

See attached

REGULAR BOARD MEETING

The Chairman, Richard V. Pryor called the three hundredth and forty-fourth regular meeting of the Delaware Solid Waste Authority Board of Directors to order on Thursday, October 24, 2012. He announced the meeting had been duly noticed and the Directors had received copies of the information to be considered.

A. MINUTES

Chairman Pryor called for additions or corrections to the draft of the Minutes of the last meeting of the Board of Directors.

Motion A – Moved by Mr. Sheldon

“The Minutes of the August 23, 2012 Board of Directors’ meeting of the Delaware Solid Waste Authority be accepted as written.”

Second – Ms. Parks

Vote – (Moore, Parks,
Sheldon, McCabe, Pryor)

Motion Adopted
(unanimous)

B. CONTRIBUTIONS

Motion B – Moved by Ms. Parks

“The Board approves the request from Engineers without Borders for a \$300 contribution in accordance with DSWA’s Policy Guidance on Contributions.”

Second – Mr. McCabe

Ms. Germain stated that the University of Delaware has a chapter of Engineers without Borders and they hold an annual 5k which we have supported for the last several years. This 5k is their primary fundraiser. The Engineers without Borders program is for young students that are majoring in engineering, who participate with another country to help design and build a project. Their last project was a bridge in Guatemala. This is a great program that benefits other countries as well as the engineering students in this country.

Mr. Esposito – Absent
Mr. Moore – Yes
Ms. Parks – Yes
Mr. Ryan – Absent
Mr. Sheldon – Yes
Mr. McCabe – Yes
Mr. Pryor – Yes

Motion Adopted
(5 Yes 2 absent)

C. CHERRY ISLAND LANDFILL – GEOTECHNICAL INSTRUMENT
INSTALLATION – CONTRACT C-12-704-NC

Motion C – Mr. Sheldon

“The Board awards the contract for the Geotechnical Instrument installation at the Cherry Island Landfill to George & Lynch, Inc. as the lowest responsive bidder for \$590,450.”

Second – Mr. Moore

Mr. Canzano stated that this work is driven predominantly by our permit requirements and the contract is for more than just instrument installation. We had 16 companies request the bid packages and we received two (2) bids; one from George & Lynch and one from Unitech Drilling. Staff recommends awarding the contract to George & Lynch as the lowest responsive bidder.

Mr. Pryor asked why this is a “good” bid if it is \$150,000 over the engineer’s estimate. Normally the engineer’s estimate is higher than the low bid but maybe Ms. Germain can shed some light.

Ms. Germain stated it’s not quite accurate to say that the Engineer’s estimate was \$452,000. The engineer’s estimate didn’t encompass the entire scope of work as Mr. Canzano stated. The initial scope of work that the engineer developed was for the geotechnical instrument installation but after we developed the bid package we decided to add some groundwater monitoring wells that we would have to install anyway. That was not part of the engineer’s initial estimate. That accounts for about \$60,000 of the difference. In addition, there are a couple of instruments that the contractor has to install that we are going to be reimbursed for by the engineer, because the engineer inadvertently directed our contractor to remove those instruments and we commissioned them, so that is a pass-thru cost of about \$27,000.

Ms. Parks stated that there was extensive discussion at the Committee level about the price and it was answered to the Committee’s satisfaction.

Mr. Moore added that as an engineer, there is not a harder time to estimate a project because of the huge fluctuations in the market conditions.

Mr. Esposito – Absent
Mr. Moore – Yes
Ms. Parks – Yes
Mr. Ryan – Absent
Mr. Sheldon – Yes
Mr. McCabe – Yes
Mr. Pryor – Yes

Motion Adopted
(5 Yes 2 absent)

**D. CHERRY ISLAND LANDFILL – LANDFILL GAS PURCHASE AGREEMENT
CONTRACT A09-616-NC**

Motion D – Mr. Sheldon

“The Board approves Amendment No. 1 to the Landfill Gas Purchase Agreement with Cherry Island Renewable Energy, LLC subject to final legal review.”

Second –Mr. Moore

Mr. Canzano stated that this is the contract with Cummins that we negotiated and as many of you know Cummins has been very diligent with moving forward with this particular project starting with the groundbreaking at Croda. They have been a little behind schedule with getting the pipeline under the river but that has been completed. That pipeline is going to have a stub up for the Port of Wilmington and the ReCommunity project. They have been a very good contractor and because of that we have generated this amendment. The amendment allows for them to recover a penalty of \$5,000 a week for each week that they are late in terms of delivering under the contract which is to accept the gas from us and sell it. October 1 was the deadline. They approached us and said they fully expect by the end of December they will have taken the minimum, be online and do all of the things they said they would do. They asked if we would be willing to forgive the penalty if they in fact meet the contractual operational commitment. The option was discussed internally and with legal counsel and we generated this amendment. The way the amendment works is if they in fact meet the take or pay commitment of the contract, they will take the credit in the first quarter billing of next year for the \$5,000/week penalty. They are paying the \$5,000 penalty and presumably they will take the credit.

Mr. Esposito – Absent
Mr. Moore – Yes
Ms. Parks – Yes
Mr. Ryan – Absent
Mr. Sheldon – Yes
Mr. McCabe – Yes
Mr. Pryor – Yes

Motion Adopted
(5 Yes 2 absent)

E. REGULATORY FLOW CONTROL PROGRAM

Mr. Canzano reported that as of late this afternoon we have come to agreement with the three (3) major haulers with the DDF for next three years. Waste Management has signed, Allied/Republic has indicated that the early part of next week they will sign the agreement and Waste Industries will be signing this Friday. With the three major haulers signed, this will lock in about 64% of our tonnage. He also received a call from Alice Jacobsohn, Executive Director of the Maryland Delaware Solid Waste Association that represents all of the small haulers as well as some of the major. She indicated that essentially all of their members will be signing the agreement as well. This has been probably one of the most arduous and challenging series of negotiations. There were a number of issues that came to the forefront including changes in technology that might be coming down the road that might impact how they do things. Universal Recycling also came into play as well as other people who are in the business. Some dynamics have changed within the state that affect us and we have had to change to meet the challenges. Mike Parkowski, Rick Watson and Michael Parkowski have been involved as well as myself on a day to day, minute to minute, week to week situation and we were able to get through this. He is pleased that the industry has chosen to work with us as business customers and not regulated entities. It's good that we are going to be able to move on with the business of doing business in the next couple of weeks.

Mike Parkowski stated that he and Pat have had a lot of discussions regarding the current dynamic and things that are going to change. We believe in the next five years we will see a lot of interest in looking at the forms of recycling that we've never seen before. He suspects that one of the challenges that the Board is going to see in the next three years is the review of the business model and how we can deal with the overall new dynamic on a competitive basis. It's not to say we are not competitive now, but he thinks there is a going to be a lot more pressure. Of course, the burden that DSWA has always felt is we support a lot of programs that don't pay for themselves and that is the reason why we don't have any problems with a flow control system. The staff has done a commendable job in finding ways to come out from under some of these financial

burdens that we have incurred in the last several years on major projects. The bond financing for Cherry Island and bond financing for the landfills have left us in a position where we have plenty of debt service to cover. As a result at the end of the next cycle we will be in a much better position to deal with those types of issues.

Mr. Pryor commended staff on all the grinding work that this took to get under our belts but also we have to get busy after the first of the year and do some really careful strategic thinking outside the box in terms of how do we position DSWA to not just try but work and preserve the health and safety for the citizens of Delaware. We have to be thinking very creatively on how we want to operate in this next “third testament”. The technology is improving so rapidly and we have to position ourselves to be ready for it. He commended the staff and legal counsel again for their work.

Mr. Canzano commented that it took the entire executive management team to support the infighting negotiating we were doing because we had to do the numbers. It took a lot of effort to look at their budgets and the spending to come up with \$1.50 increase for each of the three (3) years. Everybody up and down the line did a piece to get us where we are.

PUBLIC COMMENT

No comment

Moved – Mr. Sheldon

“The Board Meeting is adjourned.”

Second – Ms. Parks

Vote – (Moore, Parks,
Sheldon, McCabe, Pryor)

Motion Adopted
(unanimous)

Respectfully submitted,

Libby J. Kelley

Meeting Adjourned: 5:26