

MINUTES OF MEETING  
DELAWARE SOLID WASTE AUTHORITY  
BOARD OF DIRECTORS

DATE: September 24, 2020

LOCATION: This meeting was held via Zoom webinar due to the State’s COVID-19 social distancing requirements.

TIME: 5:00 p.m.

ATTENDEES:

DIRECTORS

Gerard L. Esposito, Chairman  
Timothy P. Sheldon, Vice Chairman  
Temple Carter, II  
Norman Griffiths  
Michael R. Paraskewich, Ph.D, P.E.  
William J. Riddle (joined at 5:23)

STAFF

Richard P. Watson, P.E., BCEE  
Robin M. Roddy, P.E., BCEE  
Michael D. Parkowski  
Joseph J. Koskey  
Jason M. Munyan, P.E., BCEE  
Lynsey K. Baer, P.E., BCEE

LEGAL COUNSEL

F. Michael Parkowski (PG&S)

GUESTS

None

REGULAR BOARD MEETING

The Chairman, Gerard Esposito, called the four hundred and fourteenth regular meeting of the Delaware Solid Waste Authority Board of Directors to order on Thursday, September 24, 2020. He announced the meeting had been duly noticed and the Directors had received copies of the information to be considered. Mr. Esposito had the clerk call the roll for the Board.

**A. MINUTES**

Chairman Esposito called for additions or corrections to the draft of the Minutes of the August 27, 2020, meeting of the Board of Directors.

**Motion A** – moved by Mr. Carter

“The Minutes of the August 27, 2020, Board of Directors’ meeting of the Delaware Solid Waste Authority be accepted as written.”

**Second** - Mr. Griffiths

**Vote** – (Carter, Griffiths, Paraskewich,  
Sheldon, Esposito)

**Motion Adopted**  
(5 Yes, 0 No, 2 Absent)

***Report of the Technical and Facilities Management Committee***

**B. DESIGN AND INSPECTION SERVICES FOR PARTIAL CAPPING OF AREA F,  
PHASE I AT THE CENTRAL SOLID WASTE MANAGEMENT CENTER –  
CONTRACT S-19-815-CS**

**Motion B** - moved by Mr. Sheldon

“The Board awards the contract for the Design and Inspection Services for Partial Capping of Area F, Phase I at the Central Solid Waste Management Center to CDM Smith.”

**Second** – Mr. Griffiths

Mr. Watson said that Area F is the current area that is being landfilled in. As DSWA landfills, we cap as we go which helps reduce leachate and captures landfill gas and minimizes odors. He said that DSWA went through the process of selecting an engineering firm for the capping design and inspections services. Ms. Roddy said that staff solicited for a request for proposal for the design work and construction services work and selected CDM Smith (CDM) as the most responsive proposer and began negotiations with them. Ms. Roddy further explained that this project is part of DSWA’s ‘cap-as-you-go’ strategy meaning that as portions of the landfill reach final grade, DSWA installs a final cap. The proposed Area F capping work consists of reviewing the existing design, providing an updated design and construction inspection services. Staff was successful at negotiating the scope of CDM’s work and pricing and recommends awarding the design and inspection services contract to CDM for \$206,195. Mr. Paraskewich asked if it included the geotechnical testing. Ms. Roddy replied yes. Mr. Sheldon noted that permission to negotiate was actually given to staff back on February 13<sup>th</sup> indicating that negotiations were going on for a long time.

Mr. Carter	Yes
Mr. Griffiths	Yes
Mr. Paraskewich	Yes
Mr. Sheldon	Yes
Mr. Esposito	Yes

**Motion Adopted**

(5 Yes, 0 No, 2 Absent)

**C. CONSTRUCTION OF TRAILER STORAGE BUILDING AT THE MILFORD  
TRANSFER STATION – CONTRACT C-19-808-CM**

**Motion C** – moved by Mr. Sheldon

“The Board rejects the low bid from Delmarva Veteran Builders and awards the contract for the Construction of the Trailer Storage Building at the Milford Transfer Station to The Whayland Company, Inc. as the most responsive bidder, in the amount of \$1,027,000.00.”

**Second – Mr. Griffiths**

Mr. Watson said that this project was the result of the situation of leaking trailers several years ago that were problematic in DNREC’s eyes and after much discussion an agreement was reached that DSWA would construct trailer storage buildings at the Milford and Route 5 Transfer Stations. After putting out to bid, The Whayland Company is the most responsive bidder. Ms. Roddy said that DSWA has been dealing with this project for several years in response to a Conciliation Order between DSWA and DNREC. Becker Morgan was hired to design the trailer storage building and associated site work. Four (4) bids were received for the project. The apparent low bidder at the bid opening was Delmarva Veteran Builders (DVB). Staff realized that there was an issue with their bid and that DVB was not able to self-perform at least 20% of the work. After consulting with legal counsel, it was confirmed that DVB’s bid was non-responsive and that The Whayland Company did have a complete bid and was deemed the most responsive bidder. Staff is recommending rejecting Delmarva Veteran Builder’s bid and awarding the Contract to The Whayland Company. It was mentioned in the Committee meeting that DSWA was asked during the bidding process if we would relieve that requirement and we answered no. Ms. Roddy said she felt that DSWA had received good legal advice and that DVB’s bid is not responsive. Staff would like to award the contract to construction the trailer storage building at the Milford Transfer Station to The Whayland Company for \$1,027,000. Mr. Esposito noted that DSWA had similar experience with this group in the past. Does DSWA expect them to appeal or raise any concerns? Ms. Roddy said that DSWA had experience in the past with DVB for the construction of the scalehouse at Sandtown. They were not able to meet the performance standard and at that time all the bids were rejected. Ms. Roddy indicated that they may raise concerns. After consulting with Kashif Chowdry, our legal counsel, DSWA has a higher level of exposure if we accept a non-responsive bid from DVB. Within 24 hours of the bid opening The Whayland Company expressed their concern that they were familiar with the way DVB does business and were questioning if DVB was a responsive bidder. Mr. Esposito asked if F. M. Parkowski had any comments. Mr. F. M. Parkowski said that Mr. Chowdry was on top of it and it was the right read on it. Whenever you have a non-responsive bid, you have two potential enemies, one is the one who loses the bid, arguing that it was a mere formality and not substantive, and the second bidder who would claim it is substantive. In this case where you have a clear standard and a legitimate standard, which is someone has to do 20% of the work, then it takes it out of the hands of the brokers. DSWA got good advice and Mr. F. M. Parkowski concurs totally with Mr. Chowdry’s opinion. Mr. Sheldon mentioned that DVB is doing a job in Milford and he had stopped into the site and he noticed all the divisions, like civil work, concrete, etc. and he went down the list. Mr. Griffiths asked if the first sentence of the motion was enough to define why the Board rejected DVB. Mr. F. M. Parkowski said that later in the motion it says that The Whayland Company was the most responsive and that it would also be reflected in the notes from this meeting that staff indicated that DVB was non-responsive.

Mr. Carter	Yes
Mr. Griffiths	Yes
Mr. Paraskewich	Yes
Mr. Sheldon	Yes

Mr. Esposito                      Yes

**Motion Adopted**

(5 Yes, 0 No, 2 Absent)

**D.      CONSTRUCTION OF TRAILER STORAGE BUILDING AT THE ROUTE 5 TRANSFER STATION – CONTRACT C-19-809-SR**

**Motion D** – moved by Mr. Sheldon

“The Board rejects the low bid from Delmarva Veteran Builders and awards the contract for the Construction of the Trailer Storage Building at the Route 5 Transfer Station to The Whayland Company, Inc. as the most responsive bidder, in the amount of \$1,267,000.00.”

**Second** – Mr. Griffiths

Mr. Watson said that this was the same situation as the previous motion. The difference with this project is that the building is bigger. There will be five bays at Route 5 instead of the three at Milford. There is more traffic at Route 5. That is the reason why the bid amount is higher. Also Route 5 has additional fill compared to Milford. The price of \$1,267,000 is justified for those two factors. Ms. Roddy said that it is a similar situation, a metal building, concrete floor and leachate collection as a result of our Conciliation Order with DNREC. These are budgeted projects. This project was budgeted at \$1,000,000 so it is slightly over. Becker Morgan’s probable cost of construction was \$1,300,000 so it is in the right ball park. Staff anticipates an eight month construction schedule. Staff recommends rejecting Delmarva Veteran Builders as non-responsive and awarding the Contract to The Whayland Company as the most responsive bidder. Mr. Esposito noted that Mr. W. J. Riddle had joined the meeting. Mr. Esposito asked if DNREC had inspection expectations? Will they just show up on the job? Ms. Roddy said that DNREC had been given the design drawings for the buildings as a courtesy. DNREC will also be issuing and erosion & sediment control permit for the project that may have some inspection involvement from DNREC. Mr. Watson noted that DNREC staff can visit the site during construction and observe. Ms. Baer said that per the Conciliation Order the only real requirement is for DSWA to give a monthly update to DNREC on how the construction is going. Mr. Esposito asked if that was a written report or a phone call. Ms. Baer said it isn’t stated, just that DSWA has to give them a monthly update. The project manager has been in constant communication with DNREC via phone calls as well as following up with an email so there is documentation. Mr. Esposito asked if there was a standard point of contact with DNREC or are there new people. Ms. Baer said that Dave Perrego who was originally handling this is no longer with DNREC and the new point of contact is Chad Dolt. Mr. Griffiths asked what percentage of the work is self-performed by The Whayland Company, is it the minimum 20? Ms. Baer said that at Milford they will be performing 23% and at Route 5 they will be performing 28%. Mr. Griffiths asked Mr. F. M. Parkowski if a company is doing a low percentage of the work they can’t start pointing fingers at the other companies that are doing 80% of the work, that they are responsible for all of the contract. Mr. F. M. Parkowski said that the way the contract is written, the prime contractor submitting the bid is responsible for all the work. They are not only responsible for their work but for all the work of the subcontractors under them. DSWA is covered. Mr. Sheldon asked what work is The Whayland Company performing. Ms. Baer said that they are doing the site work and the erosion and sediment control work. Mr. Riddle asked if DSWA has a list of the primary subcontractors (subs) and does DSWA have any say of who they pick if we are aware of any past problems. Ms.

Baer said that there is a form in the bid package that requires them to indicate who their subs are. They usually list the biggest subs not necessarily everyone. However, once the contract is awarded they will move forward with getting a complete list of the subs and they will give that to DSWA. Mr. Riddle said that The Whyland Company had executed a \$2 million dollar contract with his company and they worked out just fine.

Mr. Carter	Yes
Mr. Griffiths	Yes
Mr. Paraskewich	Yes
Mr. Riddle	Yes
Mr. Sheldon	Yes
Mr. Esposito	Yes

**Motion Adopted**

(6 Yes, 0 No, 1 Absent)

NEW BUSINESS

Mr. Munyan updated the Board that the Pine Tree Corners Transfer Station was closed for floor repairs in case anyone hears any questions. It was a planned closure that had been delayed from the spring.

Mr. Riddle asked what the article in the Cape Gazette was about. Mr. M. D. Parkowski said that the City Manager of Lewes had told the paper that DSWA had changed the threshold for contamination in the recycling. It wasn't true. Republic sent out a letter to all haulers who bring single-stream recycling directly to the Materials Recovery Facility or to one of DSWA's transfer stations. It reminded them of the threshold limits that haven't changed. They are the same as they have always been. The letter also went over the procedures that are in place, that are the same as they've always been, dealing with contamination. The gist of the article was the town manager asking residents to do a better job of putting material in the recycling can. It was a good article and helped to re-enforce what items should be recycled.

Mr. Esposito noted that he had been attending a few of the Household Hazardous Waste events the Jones Crossroads Landfill. He said that at one event the line for shredding was long. Mr. M. D. Parkowski said that the shredding events are always heavily attended. Mr. Esposito said that the events were very safe and staff was friendly. Mr. M. D. Parkowski said that our vendors have done a great job for providing a safe environment during these times with Covid.

PUBLIC COMMENT

No comment

**Motion** – moved by Mr. Sheldon

“The Board Meeting is adjourned.”

**Second** – Mr. Riddle

**Vote** – (Carter, Griffiths, Paraskewich,  
Riddle , Sheldon, Esposito)

**Motion Adopted**  
(6 Yes, 0 No, 1 Absent)

Respectfully submitted,

Pamela Williamson

Meeting Adjourned: 5:38 p.m.