

: OFFICIAL PROCEEDINGS :**: FOR THE CITY OF PEORIA, ILLINOIS :**

Peoria, Illinois, July 15, 2009, a Peoria City/County Landfill Committee Meeting was held this date at 8:04 A.M., at Peoria County Courthouse, 324 Main Street, 4th Floor County Board Room, Peoria, Illinois, with Mr. Lester D. Bergsten presiding.

ATTENDANCE

The following Committee Members were physically present: Bob Akers, Les Bergsten, Brad Harding, Ryan Spain, Merle Widmer and Steve Van Winkle - 6. Absent: Tim Riggensbach - 1.

City/County Staff present: Dave Barber, Julie Dewey, Steve Giebelhausen, Tom O'Neill, Patti Pitcher, Karen Raithel, Randy Ray, Patrick Urich

Other interested parties: Lee Addleman, George Armstrong, Joyce Blumenshine, Chris Coulter, Matt Coulter, Royal Coulter, Ron Edwards, Dan Erni, Tracy Meints Fox, Steve Harenberg, Dale Hoekstra, Steve Matheny, Brian Meginnes, Devin Moose, Carl Niemann, Joe Roberts, Cara Rosson, Patrick Sloan, Ron Welk, Mike Wiersema

ANNOUNCEMENTS, ETC.

None.

MINUTES

Mr. Van Winkle moved to approve the minutes of the Regular Peoria City/County Landfill Committee Meeting held on June 4, 2009; seconded by Mr. Akers.

Approved by viva voce vote.

AGENDA ITEMS**ITEM NO. 1. REPORT from FOTH INFRASTRUCTURE & ENVIRONMENT, LLC****A. Permit approvals as needed.**

Mr. Sloan reported the only item needing Committee approval is the Special Waste application included in the meeting packet from CF Industries, Inc. [sandblast grit]. No technical objections. The other item Ameren – Various Locations [soil oily waste (non-PCB)] is a pre-approved renewal.

Mr. Spain moved to approve CF Industries, Inc. application and receive and file the Ameren waste stream; seconded by Mr. Van Winkle.

Approved by viva voce vote.

ITEM NO. 2 REPORT from WASTE MANAGEMENT, INC.**A. Monthly Activity Reports**

Mr. Matheny reported the larger (2,000 cfm capacity) flare has been installed. The flare is currently operating between 750 – 800 cfm; however, it needs to operate between 900 – 1,000 cfm for methane collection purposes to operate a gas plant.

No discussion regarding the monthly Activity Report.

Mr. Widmer moved to approve Waste Management's report; seconded by Mr. Akers.

Approved by viva voce vote.

B. Permit approvals as needed

No permit applications to present.

ITEM NO. 3 REPORT on RESOURCE TECHNOLOGY CORPORATION

There were no representatives of RTC present at the meeting.

Mr. Giebelhausen stated there is nothing new to report other than the July hearing date has been continued to September. He anticipates having updates for the Committee at the August meeting which will require Executive Session at that time.

No royalty monies have been received.

ITEM NO. 4 FLARE BIDS

Mr. Sloan confirmed RTC has not produced electricity for two (2) months. There are a number of other compliance factors. He suggested issuing bids. Mr. Sloan has worked with Mr. Chris Switzer, the City's Purchasing Manager, in case the Committee is ready to advertise this tomorrow.

Mr. Akers moved to approve letting bids for flare; seconded by Mr. Spain.

Approved by viva voce vote.

Mr. Spain questioned whether or not the Committee could work with Waste Management on this issue since there are two (2) flares out there that are available if needed. He feels there is some value with Waste Management to expedite.

Mr. Bergsten acknowledged Mr. Spain's point was well taken; however, Mr. Giebelhausen stated it must be publicly bid.

ITEM NO. 5 APPROVAL of SEYFARTH & SHAW INVOICE for \$4,243.85

Upon Committee's agreement, Mr. Bergsten suggested combining Item No. 5 and Item No. 6 – Seyfarth & Shaw invoices – as one action item.

Mr. Spain expressed concerns regarding these attorney bills. He understands this is a complex and lengthy case; however, he's confused as to why bills are being presented for just under \$20,000 with nothing to show. Furthermore, the Committee has not had an Executive Session in quite some time in which to discuss any progress in our case.

Mr. Giebelhausen assured Mr. Spain an Executive Session would be held on August 19th to update the Committee.

Discussion was had regarding postponing the approval of these two invoices but since the work has already been done, it was felt postponing approval wouldn't impact the amount due. It was recommended approval be given today for amounts due. Mr. Giebelhausen further explained

that Mr. Comella's proximity to Cook County not only allows flexibility to attend last-minute hearings that frequently occur, but he also has the expertise and experience of winning an RTC-related case, so we would want to pay his bills in a timely manner in order to retain his services.

Mr. Widmer moved for approval of the Seyfarth & Shaw invoices listed as Item No. 5 (\$4,243.85) and Item No. 6 (\$1,942.41); seconded by Mr. Akers

Yeas – Akers, Bergsten, Harding, Van Winkle, Widmer
Nays – Spain

Motion passed.

ITEM NO. 6 APPROVAL of SEYFARTH & SHAW INVOICE for \$1,942.41

See above.

ITEM NO. 7 APPROVAL of LINDA KUJACA INVOICE for \$12,104.77

Mr. Van Winkle moved for approval of Ms. Kujaca's invoice (\$12,104.77); seconded by Mr. Akers.

Yeas – Akers, Bergsten, Harding, Van Winkle, Widmer
Nays – Spain

Motion passed.

ITEM NO. 8 DISCUSSION and APPROVAL of BID AWARD for LANDFILL EXPANSION PROJECT

Mr. Harding, being new to the Landfill Committee, needs to understand how close their performance has been to their predictions/projections.

Mr. Niemann responded that their projection is 282,000 T per year for 20 years at \$1.50 per T. The 2008 data shows the waste receipts were 272,000, so clearly within range.

Mr. Niemann clarified in their current proposal, WMI projected a flat 300,000 T per year for 34 to 49 years.

Mr. Coulter stated PDC's performance is based on the Indian Creek Landfill, projecting 1% per year in their proposal which is the same expectation in growth rate. PDC also provides fixed pricing.

Mr. Harding asked, given today's economy and internalization, if each company still feels confident these projected numbers will come to fruition.

Mr. Coulter explained that, on average, they've realized a 10% increase at their Indian Creek Landfill (Tazewell County), a 5% increase at their Clinton Landfill (DeWitt County) and a 2% increase in Pike County (Pike County) over the past five (5) years. So far, receipts are trending ahead of last year at PDC's Indian Creek and Clinton Landfill facilities, which is why he's confident in the projected numbers as presented.

Mr. Niemann said the economy impacts municipal and special waste revenues. Internalization is conservative so it can be achieved. One operator means the flow is at their discretion.

Mr. Harding stated both the City Council and County Board are looking hard into their budgets and asked if we can look at the Peoria City/County Landfill for economic indicators.

Mr. Niemann explained volumes tend to fluctuate with economic trends, giving roll-offs as an example. Optional spending, such as roll-off volume and event work at the landfills, is often put on hold during times of economic uncertainty. In general, the waste industry is recession resistant but not recession proof. When there's a decrease in commercial waste (i.e., families eating out less often), there's a direct increase in residential waste (i.e. families eating at home more often).

Mr. Coulter stated that the residential waste market is recession proof, the commercial waste market is recession resistant and the industrial waste market is recession prone. A good example of an industrial customer being affected by the economy has been Keystone Steel & Wire Company. In the beginning of 2009, Keystone was barely generating any waste due to a lack of orders; however, as some of their competitors go out of business, they are starting to process more orders, generating more waste. There may be opportunities in the near future for Subtitle D landfills like Peoria City/County to accept large quantities of fly ash waste from power stations. IEPA may start regulating the disposal of fly ash more strictly at facilities like the Dynegy power station in Havana, Illinois, which could cause these stations to pursue shipping their waste streams off-site for disposal.

Mr. Widmer stated a large segment of Peoria County residents want to keep waste out of the Landfill. He asked: Who is most recycle-minded? How do you increase recycling programs?

Mr. Coulter replied both companies do a good job with recycling. He referenced Page 23 of their proposal which explains PDC currently diverts around 10,000 T of waste materials from landfill disposal through various recycling programs in the Peoria area.

Mr. Niemann promised to make best use of the Landfill. Waste Management is the largest recycler and they will focus on getting recyclable materials before they reach the waste stream through curbside program.

Mr. Coulter said both companies propose Hazardous Household Waste collection but PDC proposes three ways in which to divert materials from landfill disposal. (1) An on-site Household Hazardous Waste Collection Center which would accept up to 150,000 lbs. of materials annually free of charge. At an estimated cost of \$1.00 per pound, this would be an annual benefit of \$150,000; (2) an on-site Citizens Convenience Center allowing County residents to drop off recyclables - cardboard, newspaper, office paper, electronics, commingled containers, yard waste, white goods, tires, pallets and clean wood. It's estimated this facility would cost \$1,000,000 but would be another incentive for citizens to recycle. (3) Placing four additional recycling drop-off containers throughout the County, also free of charge, which calculates to a \$35,000 annual benefit.

He mentioned that Waste Management is also offering Household Hazardous Waste collection events, but the success of these events would be contingent upon receiving grants from the IEPA, which may be in jeopardy due to the State's current budget situation.

Mr. Widmer mentioned the City hauling contract.

Mr. Coulter stated both PDC and Waste Management offer the City a 10% discount off the posted gate rate for the disposal of residential waste. However, PDC also offers an additional rebate of \$10.00 per T which is applied to any waste hauler delivering residential waste to the Peoria City/County Landfill.

Mr. Akers asked if hauling contractor helps or conflicts with Peoria City/County Landfill.

Mr. Coulter quoted from Waste Management's letter a rate of \$15 per T. However, PDC's offer of the discount and the rebate combined calculates to a \$14.00 - \$15.00 per T discount off the posted gate rate, regardless of who the contracted waste hauler would be for the residential waste.

Mr. Niemann clarified there would be a minimum of a 10% discount and further stated that Waste Management has routinely gone above and beyond their contractual obligations and requirements and continues to do so.

Mr. Akers asked if discounts to the City/County will be on the backs of rural residents.

Mr. Coulter replied no, they would put their best foot forward.

Mr. Niemann's response was Waste Management would pool its sources.

Mr. Van Winkle asked if either company expects cost of collection/separation/transportation to ever become a break-even process, justifying the "free" recycling programs.

Mr. Niemann said they were close about a year ago, but today's economy now makes it a cost item, to which Mr. Coulter agreed.

Mr. Van Winkle inquired about the ramifications of the FAA/Ford Act and the George W. Downing International Airport.

Mr. Moose, PDC's attorney, stated that because this project is within an existing facility, even though it would be new construction, the expansion is deemed "existing" and, therefore, is an exemption to this FAA ruling. Also, the 60-passenger variable contained within the ruling does not pertain to Peoria. Mr. Moose firmly believes his analysis of the FAA ruling is accurate and would be approved by the FAA with whom he's worked on various projects for the past 20 years with success.

Mr. Niemann stated the FAA trumps IEPA decisions so clarification would need to be received from them.

Mr. Spain asked, in relation to the market-based gate rate vs. a fixed rate, why Waste Management's rate is promoted as being more realistic. Additionally, what's the benefit to the Peoria City/County Landfill?

Mr. Niemann said the benefit is a competitive rate. Knox County, for example, is owned and operated by the County.

Mr. Coulter corrected Mr. Niemann in that he stated the market-based gate rate would be \$42.42 per T today under Waste Management's proposal. Today's market-based gate rate is \$44.92 per T based on the analysis provided by Foth Infrastructure concerning Waste Management's proposal. For comparison purposes, PDC's proposed gate rate for 2009 is \$43.00 per T which is almost \$2.00 per T less than Waste Management's proposal. He went on to say that the \$44.92 per T rate is not totally accurate as this rate doesn't factor in fuel and environmental surcharge adjustments which are allowed for five (5) of the ten (10) landfills Waste Management offered under its proposal. According to Foth's RFQ Comparison Table

[dated June 30, 2009], the tipping fee at Peoria City/County Landfill No. 2 in 2018 would be \$66.91 per T, which is almost \$14.00 per T higher than PDC's proposed gate rate of \$53.00 per T in 2019. This differential means PDC's proposed rate structure is \$50 million less than Waste Management's proposed rate structure in net present value dollars over the life of the landfill.

Mr. Spain asked for further explanation of the soil management at site analysis in relation to the hydrogeologic issues and the concerns expressed in Mr. Sloan's memo regarding PDC's design. [The design would compromise the groundwater impact assessment.]

Mr. Moose explained there are no soil management issues with PDC's design because space has been provided to stockpile excavated soils. With respect to hydrogeology, Mr. Moose indicated that PDC's proposed landfill is not excavated as deep as Waste Management's proposed landfill and, therefore, PDC's proposed landfill would not present greater challenges in passing a groundwater impact assessment.

Mr. Niemann said Waste Management concurs with Mr. Sloan's evaluation that the groundwater impact assessment a key aspect in acquiring IEPA requirements, acknowledging if there are concerns with the depth of the base grade that would be problematic and likely require a re-design.

Mr. Moose stated both facilities are confirmed to be constructed at the same elevation so why Mr. Sloan noted this issue with PDC and not Waste Management isn't clear but ultimately the decision will be IEPA's.

Mr. Spain asked about the size of the Landfill and the perpetual care fund.

Mr. Neiman explained that Waste Management provides a number of financial instruments guaranteeing their on-site work. They currently provide over \$44 million in financial assurance at Peoria City/County Landfill No. 2 - \$20 million of which is a Certificate of Insurance for pollution legal liability, \$15 million for general liability, \$6.87 million for a Certificate of Insurance to IEPA covering closure and post-closure care and a \$2 million performance bond in the name of Peoria City/County as stipulated in the contract.

Mr. Coulter referenced Pages 36 & 37 of PDC's proposal for a full explanation.

Mr. Spain asked if the proposed Perpetual Care Account would be under City/County control.

Mr. Coulter explained Committee approval of purchase to be paid from escrow account (held at an independent escrow account holder) would be required.

Mr. Spain asked for a basic explanation of internalization.

Mr. Harding asked about the anticipated transitional period from Peoria City/County Landfill No. 1 and Landfill No. 2.

Mr. Coulter said he anticipates it would take approximately two (2) months.

Mr. Niemann agreed that the actual transition from one operator to the next is a matter of months. However, the timing of the benefits is also key. If Waste Management is chosen, the benefits would be immediate with regard to producing gas at Landfill No. 1, producing energy and building the new proposed facilities as well as offering recycling and eWaste events. Gas royalties - \$60,000 – would be realized immediately and enhancing the host fee at Landfill No. 2 would deliver \$67,000/year in extra funding as well.

Mr. Bergsten asked for clarification that if the City/County has control of gas, flaring, etc., do the bidders have plans to generate electricity again even if it means installing new equipment?

Mr. Coulter referenced Page 39 of PDC's proposal which indicates yes, as soon as RTC issues are resolved.

Mr. Niemann said if Waste Management is chosen they would produce as soon as a new plant or remodel of the existing plant could occur. He pointed out that PDC's proposal states they [PDC] would assist when RTC issues are resolved and following non-appealable local siting approval, which couldn't occur for several more years.

Mr. Bergsten questioned who would be responsible for the associated piping costs?

Mr. Niemann replied it would be Waste Management.

Mr. Widmer moved to postpone the Bid Award until the August 2009 meeting to allow Committee members time to review and absorb the additional information; seconded by Mr. Van Winkle.

Approved by viva voce vote.

UNFINISHED BUSINESS

None.

NEW BUSINESS

Mr. Akers requested future Landfill Committee meetings begin at 8:30a.m. instead of 8:00a.m. on a permanent basis. This extra half hour would allow him to make child care arrangements and a timely arrival; seconded by Mr. Harding.

Approved by viva voce vote.

PUBLIC COMMENT

Mr. Bergsten welcomed public comments, stating no repeats allowed, each speaker limited to three (3) minutes and issues regarding PDC's hazardous landfill would be ruled as Out of Order.

1. Cara Rosson – 901 E. Mossville Road

Ms. Rosson encouraged the bidders to put it in writing, the City/County to be proactive in the special waste review and approval in advance. She also stated the perpetual care fund should be for post-closure only. She favors a tangible escrow (cash) fund with independent management and oversight over the fund and encourages the increase recycling efforts. She is also in favor of PDC's Hazard Household Waste Collection Center and eWaste, etc., on a monthly basis rather than a quarterly basis. Lastly, she encourages a smaller footprint of the expansion and a concise timeframe.

2. Joyce Blumenshine – 2419 E. Reservoir - Sierra Club volunteer

Ms. Blumenshine supports the perpetual care fund and noted that Indian Creek takes out-of-state waste but Peoria City/County Landfill does not.

3. *Tracy Fox – 15215 N. Ivy Lake Road, Chillicothe – Peoria Families Against Toxic Waste*

Before making a decision, Ms. Fox encouraged the Committee to look hard at (a) How big should it [expansion] be? (b) What specifically should the Landfill contain? (c) Who should be making these decisions?

NEXT MEETING

The next Regular Landfill Committee meeting will be held at the Peoria County Courthouse, 324 Main Street, on Wednesday, August 19 15, 2009, at **8:30A.M.** in the 4th Floor County Board Room.

Mr. Bergsten reminded everyone that meeting packet materials are due to Ms. Pitcher by 9:00a.m. Monday, August 10th.

EXECUTIVE SESSION

None.

ADJOURNMENT

Mr. Widmer moved to adjourn the regular meeting; seconded by Mr. Akers. The regular Landfill Committee meeting adjourned at 10:35A.M.

Lester D. Bergsten
Chairman

/pp