

**CHITTENDEN SOLID WASTE DISTRICT
SOUTH BURLINGTON CITY HALL
MINUTES OF MEETING
April 25, 2007**

APPROVED COPY

PRESENT

BOARD MEMBERS:

Bolton	-----
Burlington	Steve Goodkind
Charlotte	John Hammer, III
Colchester	Dirk Reith
Essex Junction	-----
Essex	-----
Hinesburg	Thomas Nostrand
Huntington	-----
Jericho	-----
Milton	-----
Richmond	Mary Houle
St. George	-----
Shelburne	-----
So. Burlington	Paul Stabler
Underhill	Mike Weisel
Westford	-----
Williston	Carlisle "Mike" Coates
Winooski	-----

STAFF:

Tom Moreau
Tony Barbagallo
Amy Jewell
Jim Ticehurst
Nancy Plunkett
Clare Innes
Jenn Holliday
Jennifer Getty
Thomas Melloni, Esq.
Michael Burak, Esq.
Kevin Ellis, Esq.
Jon Anderson, Esq.

OTHERS PRESENT:

Jan Ferro
Joe Ferro
Erik Heikel
Janice Poplawski

- AGENDA:**
1. Call to Order
 2. Agenda and Public Comment Period
 3. Approval of Minutes (3/28/07)

4. Ledgewood Homeowner, Janice Poplawski
 5. Finance
 6. FY'08 Budget
 7. Program Updates
 8. Other Business
 9. Executive Session
 10. Adjournment
-

1. CALL TO ORDER

In the absence of Bert Lindholm, Paul Stabler assumed the duties of Chairman and called the meeting to order at 7:05 p.m.

2. AGENDA and PUBLIC COMMENT PERIOD

There were no changes to the agenda. Paul Stabler urged the Board to submit the General Manager's evaluation. Jennifer Getty, CSWD Administrative Assistant, was introduced to the Board.

Public Comments

Erik Heikel, Winooski City Councilman, introduced himself. Mr. Heikel stated he is observing the meeting to make a recommendation to the Mayor of Winooski regarding a representative from Winooski.

3. APPROVE MINUTES

March 28, 2007 – Regular Meeting

MOTION by Mike Weisel, SECOND by Mike Coates, to approve the 3/28/07 minutes as written. VOTING: unanimous; motion carried.

4. LEDGEWOOD HOMEOWNER, JANICE POPLAWSKI

Janice Poplawski addressed the Board. Ms. Poplawski stated she and her husband purchased their home and then the last remaining building lot (in 2006) in the Ledgewood development in Williston without knowledge of the impending regional landfill. An interested buyer and contract for an \$800,000 house was in place for the building lot, but after the buyer learned of the landfill the contract was withdrawn. In addition, a bill from the State of Vermont for land gains tax totaling \$56,745 must be paid because a house was not built on the lot within the specified time period. Ms. Poplawski spoke of the extreme financial and emotional distress they are under because of the situation, and noted at neither time when they purchased the property in Williston was the landfill disclosed. Two different attorneys worked on the real estate transactions, but the information on the landfill was not disclosed. No where in the town budget is it explained what the "Host Town Agreement" is, continued Ms. Poplawski, noting they assumed the agreement pertained to the existing transfer station. In September, 2006, Ms. Poplawski said they found out about a letter from CSWD to the Williston Planning Commission sent in 1995 suggesting the Williston Development Review Board disclose the fact of the landfill plans. Ms. Poplawski questioned if CSWD has an ethical responsibility to provide homeowners with information on the landfill, citing similarity to the Enron case where associated businesses were charged with secondary wrongdoing for withholding

information. The Williston town map shows only a small item for CSWD which is very misleading, said Ms. Poplawski, and though CSWD and the landfill plans have been in effect since 1992, but they did not live in Williston at the time and others who did live in town said this information was not part of their home buying research so no one was negligent in buying their house. Regarding VOCAL and the Williston Neighborhood Coalition hurting the homeowners, Ms. Poplawski maintained these groups uncovered information that was not disclosed to the neighborhood. Ms. Poplawski stressed the landfill is affecting them financially, emotionally, and possibly health-wise. In trying to research studies on the landfill, the CSWD website shows studies possibly from 1990. In summary, continued Ms. Poplawski, the landfill is affecting their largest investment, their house, and her husband's ability to grow his home construction business and sell the building lot which is creating extreme financial and emotional stress on the family.

Paul Stabler clarified the request by Ms. Poplawski is for reimbursement of \$183,433 for the lot plus \$56,745 for the land gains tax and \$12,513 in interest expense, taxes, and assessment fees. The Board will discuss the matter in Executive Session at the end of the regular meeting.

5. FINANCE

a) Finance Committee Report of Warrants

Warrants approved by the Finance Committee. There were no questions from the Board.

b) Bank Balances Ending 3/31/07

The Board reviewed the account balances. There were no questions from the Board.

6. FY'08 BUDGET

MOTION by Mike Coates, SECOND by Dirk Reith, to approve the FY'08 Operating Budget of \$7,557,133 and Capital Budget of \$6,775,760.

DISCUSSION: Tom Moreau reviewed budget highlights, including the 5.4% increase due mainly to one time costs. Significant changes are a \$338,000 decrease in Facilities Management due to the MRF contract, increase in the Salaries line item due to the addition of 2.9 FTE positions in marketing and recycling enforcement on one year contracts and additional people for DOC maintenance, an increase in Legal Services line item to address current/future legal matters, a contractual increase in MSW disposal, and various one time studies, such as a "pay-as-you-throw" and biosolids studies. There was discussion of the MRF tip fee which the General Manager has discretion to control. Presently markets are strong for recycled materials, but this can and does change. Tip fees for the MRF show as \$0 in the district and \$5 for out of district material in the FY 08 budget. Scrap metal shows an increase. There was discussion of recycling enforcement. Load checks on commercial trash can be done, but residential trash cannot be searched. Cold calls to businesses to ensure they are recycling can also be done. Licenses will be monitored. The litter issue will be addressed. The solid waste management fee will be monitored. Records will be audited and the security videos will be checked. CSWD internal policy is to educate, provide technical assistance

and follow up in support of recycling. For businesses that do not strive to comply, fines can be levied. Mary Houle suggested businesses be required to prove they recycle (i.e. submit a plan showing how much they intend to recycle). Nancy Plunkett stated an assessment is done and businesses are shown what they should recycle as well as how to do this. Staff follows up to measure progress. Tom Moreau noted CSWD has a consultant looking at how to improve CSWD's recycling rate. The consultant wants to improve our capture rate by providing both an incentive and a stick. Options include implementing a 'pay-as-you-throw' approach, possibly using carts versus bins (carts are more efficient and hold more material), and getting tough on businesses (i.e. have each business sign a statement indicating what they are recycling). Mary Houle suggested businesses report to the CSWD Board of Commissioners each month to confirm they are in compliance since recycling is mandatory. Paul Stabler noted CSWD is among the best in New England for recycling. Tony Barbagallo assured the haulers do support recycling, but also want to provide the service their customers want, and that is the gap that must be addressed. Tom Moreau stated CSWD is ratcheting up both the educational and enforcement pieces of recycling. A brochure is produced indicating what is recyclable and what is not presently. On a different note, Paul Stabler pointed out FY08 net operating revenues over expenses is leaner compared to the figure in FY07. Tony Barbagallo reviewed the highlights of the Capital Budget, including the intent to purchase the Williston site for a regional landfill and complete preliminary design of the landfill as well as begin the permitting process. Capital expenses also include the purchase of a biosolids trailer for Milton, expanding the MRF tip floor, modifying the container sorting line, and accepting #3 through #7 plastics at the MRF. The Colchester DOC will be relocated and a new facility built in FY'08. RecycleBank will be implemented at the DOC (volume based system with swipe cards) with the data end of the operation handled at the MRF. RecycleBank is relocating some of their staff to the area. All Cycle is implementing the service this summer. RecycleBank wants to do something at the DOCs. There was discussion of revenue from #3-#7 plastics. Milk jugs (HDPE, #2 plastics) pay approximately \$650/ton. Colored HDPE containers (detergent, bleach) pay about \$350/ton. PET plastic (water bottles) pays about \$400/ton. The additional plastics will increase tonnages. Tom Moreau will send data to the Board. The #3-#7 plastics may be combined into a group blend to yield \$80/ton. The #1 and #2 plastics may be blended as well. There were no further comments.

VOTING: unanimous; motion carried.

Tom Moreau briefly explained the procedure with member towns in accepting the CSWD budget (action within 45 days). Board members will be notified when staff will be meeting with their town.

7. PROGRAM UPDATES

The Board received written briefs on programs/projects in the District.

National Board for Product Stewardship

Jenn Holliday briefed the Board on the effort to make manufacturers produce less packaging and design for the life of their products. Dell and Hewlett Packard are trying to design for take back of their computers. Another significant item to be addressed is paint. According to the National Paint and Coating Association 95% of the paint manufacturers in America will participate in a demonstration project of complete collection and disposal of paint for the entire state where they are located and at their cost. Vermont is on the list of roll out states before the program goes nationwide. Half of the CSWD hazardous waste budget is for paint disposal. Other items to be addressed in the near future include compact florescent bulbs. Tom Moreau mentioned British Columbia passed a product stewardship bill in conjunction with industry for tires (return to sender), used oil, bottles (beer manufacturers are responsible for disposal of their bottles), and cans. Clare Innes reported Small Dog Electronics garnered two tractor trailer loads and three box trucks of computers for recycling at Good Point Recycling.

Methane Gas to Energy

Paul Stabler reported the Executive Board will tour the facility at the Phase III Landfill to convert methane gas to electricity.

Presentation to Bill Leach

Paul Stabler reported several board members and staff presented Bill Leach with the resolution and photo collage of his involvement with CSWD which seemed to please Chairman Leach very much.

8. EXECUTIVE SESSION

MOTION by Mike Coates, SECOND by Mary Houle, that the Board of Commissioners of the Chittenden Solid Waste District go into Executive Session to discuss ongoing and pending litigation, property purchases, personnel issues, contract negotiations, and interdepartmental matters that concern matters other than primarily factual matters which are preliminary and prior to formulation of public policy, where premature general public knowledge would clearly place the District, its member municipalities, and other public bodies or persons involved at a substantial disadvantage, and further, to seek and discuss the advice of attorneys on various legal issues where premature public knowledge could adversely affect the outcome of such civil action against the District, and to permit staff, consultant(s), and the Solid Waste District attorney(s) to be present for this session.

DISCUSSION: Steve Goodkind asked if some information can be discussed in regular session. Tom Moreau noted legal issues must be covered in Executive Session. One issue on the agenda could be discussed either in open session or Executive Session. The agenda for Executive Session includes the lawsuit on the host town agreement, the Poplawski issue, strategy and issues with the Supreme Court ruling, strategies prior to development of policy (there are strong legal ramifications). Mr. Goodkind commented the more that can be discussed in open session, the better.

MOTION by Mike Coates, SECOND by Mary Houle, to table going into Executive Session at this time. VOTING: unanimous; motion carried.

The regular meeting resumed.

9. OTHER BUSINESS

Supreme Court Decision

Jon Anderson and Michael Burak, attorneys, reported the Vermont Supreme Court decided to uphold the lower Court's decision on eliminating the business loss. The District can acquire the Hinesburg Sand & Gravel (HS&G) property with payment of the \$4 million judgment plus an inflation cost. There is no prejudgment interest due at 12%. The matter of paying inflation on the \$4 million figure will be resolved in the future in the Superior Court. At the end of the trial the jury gave \$4 million in land value and \$4.8 million in business damages to HS&G. HS&G also asked for prejudgment interest. The District filed for reconsideration to strike business damages and the prejudgment interest, and the Superior Court judge agreed to eliminate the \$4.8 million in business damages. HS&G has the opportunity on May 4, 2007 to request a reargument with the VT Supreme Court. They also have other alternatives so the matter is not settled as yet. Had HS&G prevailed in court, CSWD would have to pay \$8.8 million plus 12% interest per year since 2000 (about \$1 million per year) which would have totaled about \$15 million to acquire the site versus \$4 million plus possible inflation. The Superior Court judge will determine if there is to be an inflation value and if so, HS&G can request that the amount be decided by a jury. January 1, 2000 was the valuation date because it is an historical but most recent date. Real estate appraisers do not speculate value in the future. They estimate based on an historical date. When the property is acquired that will be the acquisition date, and it will have to be determined if there has been a significant change in the property value between the two dates to justify the court entertaining further proceedings to update the value.

Informational Articles

Tom Moreau urged everyone to read the following articles posted on the CSWD website: "Power of Green" in the New York Times, April 15, 2007, and "Beyond Disposal and Recycling: Preventing Waste Generation" by George Crombie, Secretary of Natural Resources, State of Vermont, April 12, 2007.

10. TABLED MOTION re: EXECUTIVE SESSION

MOTION by Dirk Reith, SECOND by John Hammer, III, to take action on the tabled motion to go into Executive Session. VOTING: unanimous; motion carried.

VOTE ON MOTION TO GO INTO EXECUTIVE SESSION: unanimous; motion carried.

The Board entered Executive Session at 8:25 p.m.

MOTION by Mary Houle, SECOND by Steve Goodkind, to adjourn Executive Session. VOTING: unanimous; motion carried.

Executive Session was adjourned and the regular meeting reconvened at 10:16 p.m.

11. ADJOURNMENT

MOTION by Mary Houle, **SECOND** by Steve Goodkind, to adjourn the meeting.

VOTING: unanimous; motion carried.

The meeting was adjourned at 10:17 p.m.

M.E.Riordan, Recording Secretary

I agree that this is an original copy of minutes and they have been approved by motion of the Board of Commissioners at the _____ meeting held in _____.

Carlisle "Mike" Coates, Secretary/Treasurer