



DEPARTMENT OF ENGINEERING AND PLANNING
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Eric K. Snyder, AICP, PP
Director

County of Sussex

SUSSEX COUNTY SOLID WASTE ADVISORY COUNCIL

MINUTES

JULY 14, 2009

The meeting was called to order at 7:33 p.m. by Chairman Jim Landrith. The meeting is held in compliance with the Open Public Meetings Act, NJSA 10:4-1 of 1975, as amended. Present were:

MEMBERS PRESENT:

James Landrith, Chairman, Andover Borough
Eleanor Mensonides, Vice Chairman, Vernon
William Koellhoffer, Byram Township
Richard Pumphrey, Frankford Township
Jason Doyle, Franklin Borough
Allan Esenlohr, Green Township
Chris Kelly, Hamburg Borough
William Sanford, Hampton Township
Robert Schultz, Hardyston Township
Howard Baker, Hopatcong Borough
Edith McGrath, Lafayette Township
Ken Jaekel, Newton
Jo-Ann Williamson, Sandyston Township
Keith Whitehead, Stillwater Township
Katherine Little, Sussex Borough
John Armeno, At-Large

MEMBERS EXCUSED:

James Wright, At-Large
Dick Plog, At-Large

STAFF PRESENT:

Phillip Crabb, Freeholder
Eric Snyder, Planning Director
Herb Yardley, Health Department
Reenee Casapulla, Recycling Coordinator
Tom Varro, SCMUA
Ross Hull, NJDEP
Neal Leitner, Program Manager

ALSO PRESENT:

John Hatzelis, Administrator, SCMUA
Jill Fischer, Ag Choice
Jay Fischer, Ag Choice

MINUTES

None available at this time.

CHAIRMAN'S REMARKS

At this time, Chairman Landrith spoke about the passing around of the hand held microphone. Beginning with tonight's meeting, the microphone will be situated on the podium in the middle of the room so that your voice will be picked up if you speak loudly and clearly. If you would like to make an official statement, please walk up to the microphone, speak slowly and your comment will be recorded in the minutes as a direct quote. If on the other hand, you just want to throw out an idea to be discussed, there's no need to walk up to the microphone to speak. As long as we can all hear you, the discussions can continue.

REPORTS

A. SCMUA Update - Mr. Varro reported on tonnage and tip fee numbers. From December 1 through February 28, there was a 10.3% decrease from the prior year's tonnage. And from that period to March 28 it decreased to 10.6%. It went down again through April 11 to 11.5% and then through May 29 it decreased to 12.2%. The decrease in tonnage is becoming worse as we proceed through the fiscal year. Better news is that the tip fee continues to rise. It's up another 1.7% through July 11. So far the average tip fee this year for the December 1 through February 28 period is \$80.19; through March 28 it is \$80.72; April 11 - \$81.13; May 29 - \$82.12; July 11 - \$82.32. That is a good trend but it does not offset the reduced volume. At this point, we are beyond what the state is going to be able to make up.

Mr. Varro also spoke about an article that appeared in the paper talking about our methane production at the landfill facility. There were some questions at the last meeting and this article helps to lay it out, going back to 1996 with our contract with Lafayette Energy Partners and receiving revenue off of that as a revenue stream since 1997. Mr. Varro said we are in the process of negotiating an agreement with a new vendor that will be putting facilities on our site. They will lease land from us that will take us through the life of the landfill and beyond. We are looking at approximately a 3.2 megawatt facility. Mr. Varro is in the process of writing a summary of these efforts and will have that at the next SWAC meeting.

B. Recycling Coordinator – Ms. Casapulla reported on the Byram Township Municipal Electronic Recycling Program in June. It went very well; they collected 7,000 pounds of electronics and plan to have that day on an annual basis.

Ms. Casapulla also reported on the Senate bill that has been approved and is currently on the Governor's desk for signature. It is a bill that will extend the certification or requirements for municipal recycling coordinators. It is something that we here in Sussex County have been waiting on to possibly have training opportunities in the northern part of the State. Certification is required by January 13, 2012. The municipal coordinators in the County are aware of this process; there are only a few who are certified.

C. State Liaison – Mr. Hull reported on doing an analysis of waste generation 2008. Tonnage is down across the state by 20% since 2006. It's not a local or regional trend; it's a national trend. Mr. Hull received a call today from Mr. Leitner and told him where to find the regulations he was looking for and gave him the name of a person to contact if he has any more questions.

DIRECTOR'S REPORTS

Mr. Snyder reported that the amended resolution was completed to reflect the waste types that were recommended by SWAC to the Freeholders. There was also an amendment to the Plan which, once again, incorporated those waste types and, for consistency, made a reference to the existing Plan. That amendment was also the result of discussions with Dennis McConnell and was done in view of the written and oral testimony at the Freeholder hearing. No other action is necessary.

Mr. Snyder also said work is being done on the overall Plan, and the MUA staff has been asked to lend a hand with Chapter 3 because of the volume of information.

Mr. Yardley reported that the department conducted 10 additional interviews with small haulers; some forms are now being rewritten for Class A and B because DEP regulations have changed; the department continues to do active inspection of Class C recycling facilities and about 25 truck inspections will be done.

CORRESPONDENCE

A. Discussion re: Tax Certification & Shared Services – Mr. Leitner reported that this subject was postponed from last meeting. Mr. Schultz then made the presentation. He said this is the first year of submitting reimbursement for the solid waste tax. He found some problems and mentioned he would welcome any clarification from Ms. Casapulla at any time. Mr. Schultz said, basically, the DEP is collecting \$3.00 per ton on solid waste tax and the municipality can get that back through submission of paperwork. He found a problem with the way the law is written. He said it's really only for what you collect and what you take. His problem with that is that they're collecting on all solid waste, so who's getting

the money. The State's collecting the money and then where is it going. At this time, Mr. Schultz said Mr. Hull could jump in at any time. Just using Hardyston's numbers, Mr. Schultz could only claim 101 tons, which only gives the municipality \$303 back. He said, talking to SCMUA, their numbers for Hardyston are over 5,000, that's over \$16,000. Where is the money? Mr. Schultz said it's lost money; if I can't claim it, no big deal, but I don't want the State to have it. At this time, Mr. Hull said he doesn't have it; municipalities are supposed to get 60% of the money, and Counties are supposed to get 25%. *Due to nonuse of the microphone and many people talking at the same time, the tape was unintelligible.*

Mr. Hull said the point being is that every town should be getting, at minimum, the tonnage they disposed of, times \$3.00. Mr. Schultz asked how you get it. Mr. Hull said to submit a tonnage report to Joe. Mr. Schultz said I did; I get \$303. Mr. Hull said that's the tax certification. He's talking about the annual municipal tonnage rate you submitted to Joe every year for the last 20 years. Mr. Schultz said Hardyston's average is about \$1800. Mr. Hull said ok, you're going to get that \$1800 back. *Once again, many people started talking at the same time.* After more discussion between Mr. Hull and Mr. Schultz, Ms. Williamson questioned what Mr. Hull said. She said Mr. Hull said Mr. Schultz is going to get \$1800 a year, and Mr. Hull is telling Mr. Schultz he can't get less than that back. But Mr. Schultz said his town is paying in \$5,000; then Mr. Hull said you will get 100% back of what you put into the system. Ms. Williamson then said so there are two amounts back? Ms. Williamson said, we (town) were paying \$1.50 to the landfill for the solid waste services tax; you (State) took that away and replaced it with \$3.00. So you doubled your money. Sandyston Township doesn't have any that they can submit; so you (State) get all of that money; the town doesn't get anything back. Ms. Williamson said all I'll (town) get is a couple hundred that I normally get for the recycling. Mr. Hull said that's correct. She said so the State is making at least . . . Mr. Hull said no, the State is not making one dollar. Ms. Williamson then asked well who is getting the money. *At this time, there was tremendous back and forth discussion/arguments and the tape was unintelligible.* Mr. Hull told Mr. Schultz he will send an email tomorrow that explains it better.

Ms. Casapulla then tried to explain this so Mr. Hull, the towns and the County can understand. She said there were so many tons and so many dollars from April 1 to December 31, 2008 from solid waste that was brought to our landfill. Don't forget there are other factors such as solid waste in Sussex County that goes to other towns and there are private haulers involved. The State Certification Form for solid waste is not based on how many tons of solid waste has been collected; the CFO of every town can only certify how many dollars were spent for tax; it's only a tax line item in their budget, not based on tonnage. It's very difficult; there are compounding factors. Most of the solid waste haulers were not prepared for this. A majority of our County is supported this way; so then you must back-track. Any kind of number provided by the towns to even qualify for this was a challenge. This is what I'd like you to bring back; this is where I think the conversation should be coming from. Eleven towns in our County can collect, and it has been such a challenge for them. If it wasn't for persistence we would not have been able to go after it. There are a number of reasons why; but it does come down to the fact that the private hauler has been

charging and cannot justify any kind of tons per dollar tax value and pass that onto the town. Therefore, the town has no way of knowing. We do know that all the money collected is divided this way: 60% municipalities, 20% County grants, 10% research and development, 5% higher education, 5% "other". We are not looking for answers right now, but we want our concerns to be brought back to the State and noted that we see some difficulties or inaccuracies, and have them at least looked into.

Mr. Hull spoke again, without the microphone, and tried to explain this using specific numbers. Mr. Esenlohr spoke up, saying to Mr. Hull, you still haven't answered his question. Is he going to get his money back? Mr. Snyder then said I guess the answer is that you're not going to get it back. If we contribute \$16,000, the redistribution formula is that you will not get back what you pay in. What Mr. Snyder would like to know is what is that formula and said that Mr. Schultz raises a very good point. You put in \$16,000, you get \$2,000 back - the math doesn't work. What probably happens is that it goes into the pockets of other counties. Mr. Yardley then said it might be helpful if we have a blackboard to explain this mathematically. *At this time, there were more questions directed to Mr. Hull about the inaccuracies of the formula and looking for an explanation.* Mr. Hull did say there are two components to this tax. Mr. Baker asked how do you get at that second pot. Once again, Mr. Hull mentioned submitting a document to Joe. He did more figuring and mentioned the amount of \$5.00 a ton for all computer and consumer electronics for this year and he wasn't sure of the breakdown of what everything is worth. Ms. Casapulla said it doesn't matter. Mr. Hull said then there is no sense talking about this. Mr. Hull said he will take care of Mr. Schultz's question tomorrow.

Mr. Schultz mentioned his neighboring town, Franklin Borough. He said, again, he feels they are going to have reporting problems. Mr. Schultz said Franklin generates about 6,000 tons, minimum, but they are only getting approved for 1300 tons. Again, he feels they're getting short changed. Ms. Casapulla said private haulers pick it up for them, and they can't accurately report how much it is. *There were many, many comments/questions at this time all being said at once.* Mr. Hull ended this lengthy discussion by saying he will get some sort of guidance for Mr. Schultz, Ms. Casapulla and will copy Mr. Eskilson.

At this time, Mr. Schultz mentioned the certification document which everyone received in their packet. Ms. Casapulla also handed out the extension. Mr. Schultz said we should be looking at shared services. Again, the money doesn't work. Mr. Schultz's argument is to make SCMUA our central hub.

B. Ag Choice COA RD&D Extension Request - Chairman Landrith said this would be covered under New Business. However, a motion was made by Ms. Mensonides to discuss this topic now. It was seconded by Mr. Baker and carried. All were in favor.

Mr. Fischer of Ag Choice said he had a meeting with the DEP a couple of months ago. His permit is due to expire in July, and he and his wife are looking to expand their facility and renew their permit. They want to increase their cubic yard capacity, but not increase their

footprint. They are also looking to upgrade some equipment to handle the increased volume. In order for Ag Choice to expand and move forward, they need to be included in the County Waste Management Plan. They are already in the Plan, just looking to expand. Mr. Varro asked that since the land is leased, and are looking at double the volume, do we need some type of endorsement by the property owner that insures he is aware of this application. Mr. Fischer said he has a contract with the landowner for another 3 ½ years. Ms. Mensonides said we need a letter saying that the landowner is aware of this and has no problem with it. Mr. Fischer said ok, I can get that. A motion was made by Ms. Mensonides to consider the resolution for expansion, and to mention the inclusion of leaves. The motion was seconded by Mr. Kelly. Mr. Varro said that the resolution should not include the word *strongly*, in front of the word *endorse*. The resolution should just say *endorse*. Motion carried; all were in favor. Ms. Mensonides agreed with that statement and said she would like to see some specifics regarding capacity. A motion was made by Ms. Mensonides to approve the application with amendments and was seconded by Mr. Kelly. All were in favor. Motion passed.

C. Grinnell Recycling May Tonnage Report - no questions or comments

D. Solid Waste Enforcement Amendment - Mr. Snyder said this was discussed previously.

E. Monthly Solid Waste Revenue & Appropriation Report - no questions or comments

Mr. Hatzelis brought up another piece of correspondence that was emailed to members. In referring to a letter from Nancy Hollenbeck, Mr. Hatzelis mentioned the attachment was not included, and it's not listed as part of tonight's correspondence. *At this time there was tremendous back and forth discussion/comments and nothing specific could be heard. Once again, the microphone was not used by anyone.*

Ms. Mensonides made a suggestion of, for future meetings, listing correspondence. Mr. Armeno then asked what is it that we should do differently; we already list the title of the correspondence. Chairman Landrith said to include a separate sheet that lists correspondence and includes a brief description of what it says; therefore complete copies are not needed. According to Mr. Snyder, complete copies of correspondence are included in the mailing along with the agenda, and will continue to be, because we have been instructed to do that. Mr. Leitner said the only item that is abbreviated is the Grinnell Report; only Sussex County figures are sent due to the volume of the entire report. Ms. Mensonides made a motion to receive all pages of Grinnell numbers, not just Grinnell in Sussex County. It was seconded by Mr. Kelly. All were in favor. Motion passed.

NEW BUSINESS

A. Establish SWAC Subcommittee re: Project 2016 - Chairman Landrith said we eventually are going to run out of landfill and need to start talking about what are the options,

and we need to set up a committee. The volunteers to serve on this committee are A. Esenlohr, J. Doyle, T. Varro, E. McGrath, R. Casapulla and J. Landrith.

B. Ag Choice Expanded Operation – SWAC Resolution – discussed previously

C. SWAC Flow Control Resolution – discussed previously

D. SWMP Proposed Amendment – discussed previously

OLD BUSINESS

Mr. Doyle said that on June 24 the Freeholders held an open public meeting on flow control. He attended that meeting and was disappointed to realize he was the only one present from this committee. In the future, Mr. Doyle suggests this committee seriously consider being well represented at these meetings. Freeholder Crabb said there was an article about this meeting in the newspaper, but it wasn't accurate at all. That article, he said, definitely missed the mark.

Mr. Hatzelis raised a question on SWAC Flow Control Resolution. He asked Mr. Snyder if there was any action to be done with that. Mr. Snyder said no, no action taken; they've already been adopted. These were amendments that were asked for by SWAC and all we're doing is offering the amended versions to include the waste types in the amendment and resolution. The resolution was adopted with those changes required so there need not be an additional vote taken on the resolution. Mr. Hatzelis said the resolutions that were emailed out changed the resolution that was originally approved on May 12. Mr. Snyder said the addition to the resolution was to add the waste types, which were not in the original resolution that SWAC adopted. Mr. Hatzelis said we had this committee approve a resolution on May 12 and waste types were in there. Mr. Snyder said no, they were requested to be in there. Mr. Hatzelis said the Freeholders approved the resolution with the ID types in there. That's where the confusion comes in. Mr. Snyder said the Freeholder resolution is different from the SWAC resolution. Mr. Hatzelis kept saying the resolution that was emailed out the other day is different than the one that's in the Freeholder packet. Mr. Snyder said the reference is made to the Solid Waste Plan identifying the waste types, as opposed to the DEP statute because, on County Counsel's advice, that's a better way to make the same point. Mr. Hatzelis said I disagree. He said there was no action taken here to have the new resolution substitute for the old resolution, but that's what you're looking to do, correct? Mr. Snyder said yes, that's what Counsel has advised us to do. Mr. Snyder asked should we reopen the resolution and vote again. Mr. Hatzelis said no. Mr. Hatzelis said if you look at the resolution approved by SWAC on May 12 and the one you have substituted, there are some differences. Mr. Hatzelis said the committee should've been provided with two copies showing those differences. Mr. Snyder said the resolution you have now is the one that Mr. McConnell and I worked on subsequent to the comments that were raised at the Freeholder hearing. The idea was to bring it into consistency with the Plan. At this time, Mr. Hatzelis began arguing about changing a 15 year old document

and was emphatic about "making these changes without any discussion". He said you say it will be fixed, but how? Mr. Snyder said I want to make this point clear. There is a Plan and we've been trying to make the changes that have been proposed consistent with that. If you want to talk about changing Chapters 2, 3 and 4, I'd like to do that because we have to amend the whole Plan. If you can point to a defect, Mr. McConnell and I can understand that the amendment then becomes less than it should be, and I'm more than happy to listen to it. Mr. Hatzelis said if something's in the Plan that's contrary to our permit, we have some problems.

Mr. Ross said he's under the wrong assumption that he can somehow change the amendment that he saw on Friday. He said I'm not confident that the DEP will approve the amendment as has been approved by this committee. He can only assume that the only reason we're doing waste flow, based on that document, is economic protection, which was ruled invalid in 1973.

Freeholder Crabb then recapped the discussion. He said he'd much rather not have the economic aspects of this fall on the homeowners. Going back, we were self sufficient because we had flow control built in. Then the court case came around that said flow control is not going to work. So the rules changed for us here. All of a sudden we had this debt service. Then the State stepped in. We're trying to be self sufficient, and I'm hearing that the DEP is not going to consider this a valid reason to go flow control. We try to do the right thing here. We've done the right thing twice - we got penalized from the 1.8 annual down to .9 and now we're trying to fix that, but can't do that either because of the Supreme Court. *Mr. Ross then tried to state something, but was interrupted a number of times.* Then he said if you can describe in your amendment to me why you think that it's a public benefit you're seeking. . . . *the tape was then unintelligible; many people were talking at the same time.* Mr. Snyder then stated to Mr. Hull that what you want is it more clearly described, adding things like the recycling element that you just discussed. Therefore, Mr. Snyder's question to Mr. Hull is procedural. Given that we have an amendment; the amendment itself talks about imposing flow control and materials to be dealt with; the resolution that would adopt that amendment should specify why we're doing that. Given that a Freeholder resolution would be adopted, adopting that amendment, would that not be an appropriate place to put that kind of reasoning, rather in the amendment itself. Mr. Hull said I disagree. Mr. Snyder said ok; that's the process so we'll have to go back and do it. Mr. Hull said I didn't come here to say I'm not supporting waste flow or Sussex County being self sufficient. I'm just saying when I got the amendment on Friday, it seemed very bare bones for us to sign off on it. *A question was asked by a member that could not be understood.* Mr. Hull's answer was I'm not a lawyer. Mr. Snyder said tomorrow he will get a hold of Mr. McConnell, put something together that begins to address it and run it past Mr. Hull. Mr. Kelly asked that Mr. Eskilson and someone from the MUA be included in that meeting with Mr. McConnell. Mr. Snyder we will undoubtedly reach out to them. *Many questions/comments were made from the floor, but no one used the microphone.*

Mr. Hull mentioned spending three years putting a Plan together. He said he remembered there were six parts to it, and the entire document has been amended. Mr. Hull said it is on their website. Mr. Snyder said it's not on ours and would like to see it.

OPEN TO PUBLIC

None present

ADJOURNMENT

There was no further business to be discussed at this time and a motion was made Mr. Armeno to adjourn. Motion was seconded by Ms. Mensonides and carried. Meeting adjourned at 9:40 p.m.