



H·R·R·A
www.hrra.org

Old Town Hall
162 Whisconier Road
Brookfield, CT 06804

203.775.6256 x304
203.740.9167
info@hrra.org

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HOUSATONIC RESOURCES RECOVERY AUTHORITY

REGULAR MEETING MINUTES

Thursday, June 18, 2009, 10:30 a.m.

Room 133, Brookfield Town Hall

Members or Alternates Present and Voting:

Bethel, Robert Burke	8
Brookfield, Joni Park	7
Danbury, Mark Boughton	35
Kent, Ruth Epstein	1
New Fairfield, Mike Gill	6
New Milford, Suzanne Von Holt	13
Newtown, Herbert Rosenthal	12
Redding, Larry Kulowiec	4
Ridgefield, Rudolph Marconi	11
Sherman, Andrea O'Connor	<u>2</u>
	99

Others Present:

Joel Urice, Danbury Alternate
 Cheryl Reedy, HRRRA Director
 Bob Metzler, HRRRA Counsel
 Vin Langone, WCI
 Dave Dunleavy, RTI
 Lynn Waller, Public (Danbury)
 Rob Pedersen, WCI
 Colin Pease, Housatonic Railroad
 Ann Marie Mitchell, Public (Newtown)
 Andrew Gorosko – Newtown Bee

Members Not Present

Bridgewater, William Stuart

Call to Order: The meeting was called to order by Chairman Gill at 10:37 a.m. with a quorum of 92 votes present from nine towns. J. Park entered the meeting at 10:46 a.m. during agenda item 3 bringing the total votes to 99 from ten municipalities.

Public Comment

- Lynn Waller said that she is disturbed about the railroad transfer station in Hawleyville, thinks it is wrong and thinks it undermines the region's solid waste system.
- H. Rosenthal, speaking for his personal views not the Town of Newtown, said the railroad transfer station is outrageous and based on his experience when he was First Selectman, he has no respect for the Housatonic Railroad

Chairman's and Members' Comments

- Chairman Gill congratulated all the municipalities for getting their budgets passed with a minimal number of votes in this difficult economy.
- The Chair thanked Sen. Lieberman's office and Rep. Mary Ann Carson and Rep. Joe Taborsak for their efforts on behalf of HRRRA and the City of Danbury to arrange for letters in support of public ownership of the transfer station by the Danbury Solid Waste Authority obtained from the region's entire federal delegation and state delegation.

Director's Report

C. Reedy highlighted the following from the written Director's Reports:

- Brought samples for members' inspection of the items in the H1N1 flu protection kits purchased by HRRRA for every permitted collection vehicle in the region. Each kit contains a bottle of hand sanitizer, a box of 20 N95 masks and a box of 100 nitrile gloves, enough to provide protection for approximately 3-4 weeks for one driver. Since the items are already purchased and some have a limited shelf life, the plan is to distribute the kits to haulers before the start of the normal fall flu season.
- With approval of the Treasurer and Assistant Treasurer, \$200,000 has been moved from the STIF account where it was earning less than 1% interest to a 13 month CD at Union Savings Bank at 2.25% APY.

Consent Action Items

a-c: **Motion** by H. Rosenthal, second by A. O'Connor to approve the minutes of the April 16, 2009 as presented, to approve the HRRRA financial statements through May 31, 2009 as presented, and to approve the 2009-10 HRRRA budget as presented and recommended by the Executive Committee. **Vote:** All in favor.

Election of Officers for 2009-10

J. Urice submitted a written report from the Nominating Committee that also included S. Von Holt and J. Park. The committee unanimously proposed the following slate of officers for the fiscal year ending June 30, 2010: Chairman Mike Gill, Vice Chairman Rudy Marconi, Secretary Andrea O'Connor, Treasurer Herb Rosenthal, and Assistant Treasurer Mark Boughton. **Motion** by R. Burke, second by R. Epstein, to accept the Nominating Committee's report and elect the slate of officers for 2009-10 as proposed. **Vote:** All in favor.

Updates:

- a. *E-waste Implementation* - Implementation of the state e-waste law has been delayed due to the regulatory writing and approval process that DEP must follow. The earliest implementation date anticipated is October 2009 and the latest is March 2010. Until implementation municipalities may continue their current e-waste collection practices, including charging residents for e-waste drop off to cover the municipality's disposal costs. The RFP for regional electronic recycling services is out with a due date of August 6th.
- b. *2009 Legislative Agenda* – HRRRA was successful with most of its 2009 legislative agenda. There were no raised bills involving last session's hot topic of requiring tip fees to be set by the DPUC. No hauler licensing legislation was passed this year although RB 918, on which HRRRA submitted testimony, showed improvement over the bills raised in prior years. The expansion of the bottle bill to include plastic water bottles and capture of the escheats by the State to the general fund, not to DEP for recycling, was this year's major loss. It passed more because of the state's financial woes than because of an energized concern for the environment among legislators. The law on escheats took effect on April 1, 2009 and the deposit on water bottles will take effect October 1, 2009. SB 3 preventing CRRA from constructing an ash landfill in Franklin or Windham passed both chambers and awaits signature by the Governor. A proposed ban on the use of plastic grocery bags was not passed and neither was a more comprehensive recycling bill, HB 5474, that while good for recycling in many respects would have cost municipalities to implement. HRRRA received assistance again this year above and beyond the call of duty by Rep. Clarke Chapin, Ranking Member of the Environment Committee, who was enormously helpful in keeping the Authority apprised of the legislation moving through his committee that would affect us.

c. *Housatonic Railroad Transfer Station* – Colin Pease, Vice President of the Housatonic Railroad Company (HRRC) said that railroad transfer stations were generally exempt from state and local regulations. However, a 2008 federal law required railroads to apply to the State for a permit for existing transfer stations, which the HRRC did. Until the DEP permit is issued, all the railroads prior rights to operate free from state and local regulations are grandfathered. The HRRC did not propose handling MSW or hazardous waste in its permit application but did ask to construct a building so that the transfer operation would be covered. And while the HRRC application asked to process up to 2,000 tons of C&D per day, it is not clear, said Mr. Pease, whether the State can limit the volume of a rail transfer station at all without running afoul of the commerce clause prohibition on interference with interstate commerce. Mr. Pease has personally met with neighbors who either are near or about the sight to listen to their concerns and try to address them.

H. Rosenthal asked Mr. Pease why the HRRC made an agreement with the City of Stamford to accept that City's shrink wrapped garbage for shipment out of the state if the railroad was not planning to take MSW. According to Mr. Rosenthal, the railroad transfer station has encroached on the wetlands and has been unwilling to work with the Town of Newtown's Wetlands Enforcement officer to correct that encroachment. Newtown's town attorney believes that the State and the town have more regulatory powers under the 2008 federal law than the railroad claims.

M. Boughton said that the operation of the railroad transfer station that doesn't have to follow the same rules or bear the same regulatory costs as other transfer stations is a threat to the viability of the Danbury transfer station. And withholding rail cars from the Danbury transfer station so it cannot ship out C&D is anti-competitive and possibly a restraint of trade. The railroad's job is not MSW it's railroading, he said.

C. Reedy asked Mr. Pease to confirm their previous conversation that the railroad transfer station was currently handling non-friable asbestos shingles from demolished houses as well as contaminated soil, which he did. Mr. Pease would not respond directly to a question about what the soil was contaminated with but would only say it was from industrial sites. C. Reedy noted that it would be in the best interest of the HRRC, especially with a pending DEP application, to voluntarily address the public health concerns involved with the operation at the site.

M. Gill said the Authority should take a position in support of the Town of Newtown and encourage the DEP to act sooner rather than later to address the public health and environmental issues.

R. Marconi asked if there was any other railroad transfer station like this in the State. Mr. Pease said he was not aware of any other. "No way would we want this in Ridgefield," said Mr. Marconi.

H. Rosenthal said that to be exempt from regulation the railroad has to operate the transfer station facility only with railroad employees. C. Pease replied that the HRRC controls the facility but those who work there are not employees of the HRRC. Newtown Transload, LLC is the operator of the transfer station and is a contractor who works for the railroad.

D. Dunleavy from AWD said it seemed more than a coincidence that the railroad had no rail cars for the Danbury transfer station at the same time that the railroad transfer station started to take in much more C&D. There are literally no haulers in the region tipping C&D at the Danbury transfer station since the railroad tip fee is \$15-\$20 lower than the tip fee in Danbury.

Ann Marie Mitchell said she represented the Hawleyville Environmental Advocacy Team (HEAT) and asked if a moratorium can be put on any activity at the railroad transfer station site until the wetlands are cleaned up. She claimed the rail transfer station sits on the primary recharge area for a significant drinking water aquifer in Newtown.

R. Burke said that Newtown may have to make a complaint to the federal Surface Transportation Board.

Motion by H. Rosenthal, second by R. Burke, that the HRRRA support the Town of Newtown by opposing the operation of the Housatonic Railroad's existing transfer station and any expansion as long as the transfer station does not abide by the same regulations with respect to protection of the public health, safety, welfare and environment as other transfer stations operating in the State, and further that the Authority directs its staff and legal counsel to provide any and all assistance possible to the Town of Newtown in its efforts to protect the public health, safety, welfare and environment from the operation of the railroad transfer station. **Vote:** All in favor.

- d. *AWD Sale Process* – Dominick and Dominick have started preliminary advertising of the upcoming sale of AWD and all the seized assets in solid waste industry publications. Bidders must be pre-qualified by the federal government to even submit a bid. HRRRA has submitted the pre-qualification questionnaire in order to be approved to obtain the bid documents when they are available.

Old Business:

- a. *Petition to U.S. Attorney General* – M. Boughton, M. Gill, C. Reedy, R. Metzler, L. Pinter and D. Casagrande met with members of the U.S. Attorney's Office on June 12 in New Haven to provide information and answer questions about the petition presented to Attorney General Holder. The meeting was extremely positive and very productive, and the City and HRRRA are thankful to the USAO for their engagement and openness. The meeting was only about the petition and there was no discussion about the forfeited assets sale process.
- b. *Public Ownership of Transfer Station by DSWA* – M. Boughton reported that the City of Danbury continues to interview and vet responses received from the RFQ for a private company to partner with the City on a bid for all the forfeited assets and provide ownership of the transfer station to the City. The respondents have been narrowed to one or two at this point.
- c. *RTI Contract Default Issues* – Since the April HRRRA meeting, R. Metzler and C. Reedy met once with T. Brotherton, D. Dunleavy and RTI's legal counsel, E. Beane to discuss HRRRA's breach of contract claims. HRRRA gave notice that it would make another information request to RTI in order to determine the scope of the monetary damages claimed. That request is in the hands of Attorney Beane and a response is expected by month's end. C. Reedy and D. Dunleavy were assigned to meet and come to agreement on operational issues such as facility delivery standards, sanctions for contaminated loads, RTI reporting requirements, marketing plan, etc. and bring their consensus back to their respective bosses for approval and sign off. To date they have met twice and are 99.9% complete on the delivery standards. The sanctions section is in progress.

H. Rosenthal noted for the record that the AWD facility on Barnabas Road in Newtown now contains hundreds of MSW containers and has become a real eyesore. The Town has asked AWD to clean up the site.

Adjournment

Motion by R. Burke, second by J. Park, to adjourn the meeting at 11:55 a.m. **Vote:** No one opposed.

Minutes Respectfully Submitted,

Cheryl D. Reedy
HRRRA Director

