

Minutes
Loudon County Solid Waste Disposal Commission
October 11, 2016

The Loudon County Solid Waste Disposal Commission (Commission) met on October 11, 2016 at 6:30 p.m. at the Loudon County Office Building. The Commission was represented by John Watkins, Larry Jameson, Kelly Littleton-Brewster, Dennis Stewart and Art Stewart. Other attendees included Attorney Kevin Stevens; City of Loudon Mayor Jim Greenway; Santek representatives Raymond Givens and Cheryl Dunson; and residents Aileen Longmire, Betty Jo McAllister, Kaye Wallace and Richard Anklin.

Mr. Watkins called the meeting to order at 6:30 p.m.

Mr. Jameson led the Commission in the Pledge of Allegiance and the invocation.

MOTION: Ms. Littleton-Brewster made a motion to approve the minutes of September 13, 2016. Mr. Art Stewart seconded the motion. The minutes were approved unanimously.

During Items of Public Concern, Mr. Anklin addressed the Commission about the percentage of landfill revenues retained by Santek and by the Commission respectively. He said 85 percent of revenue was going to Santek, while 15 percent was being retained by the Commission. Mr. Anklin said based upon the revenue percentages, he didn't believe the Commission could accrue sufficient closure/post-closure funds. He also asked the Commission for a running total of money collected by the Commission since the inception of the contract.

Ms. Hunter also addressed the Commission about the closure/post-closure proposal presented by Santek at the Commission's September meeting. She said the Commission needed a business model and data to determine if the amount proposed was sufficient. She also gave a running total of the amounts of revenue retained by Santek since the inception of the contract and the amount retained by the Commission. She concluded by saying the landfill is the Commission's greatest asset and liability. She said the Commission receives a letter from its auditor each year stating the estimated liability for the Commission is increasing..

Ms. Longmire said there was no discussion in the minutes about the list of discounted tipping fees being distributed to the Commission from Chairman Steve Field. She also said she couldn't understand why the Commission would consider giving five-year extension to Santek given the current financial condition of the landfill.

Ms. Dunson presented the Cash Activity Report.

During Santek's Operations Report, Commissioners expressed their displeasure at the new customer activity report distributed by Santek. Mr. Jameson said it was a very bad move to remove customer names and rates, and he said the new report lacked transparency. Mr. Watkins asked Ms. Dunson to tell her superiors the Commission was very upset with the new report.

Mr. Jameson asked if it was possible for Santek to put a water truck on Hwy. 72 every other week due to the dry weather conditions and dust. Mr. Givens said he has been trying to do that.

Ms. Littleton-Brewster gave an update on the Poplar Springs Landfill. She said all paperwork has been completed and the repair project would be put out to bid during the week of October 17th.

Mr. Stevens gave an update on the proposed contract modifications. He said Santek's proposal was just presented last month and the Commission needed to perform an evaluation of the proposal and get feedback from others before it can respond. Mr. Stevens suggested hiring a third-party engineer to evaluate the proposal from the financial and operations standpoints. He also suggested the Commission get some proposals with cost estimates prior to engaging a third-party engineer. Mr. Jameson said the Commission isn't ready to hire an engineer and is not ready to move forward. He said he didn't think \$1.50 per ton was sufficient, adding he thought the dollar amount was closer to \$5 per ton. Mr. Stevens said he envisioned requesting an engineer to update of closure/post-closure estimates from several years ago. Mr. Jameson asked Mr. Stevens to clarify whether the Commission would only be soliciting proposals and not obligated to make a commitment. Mr. Stevens said that is correct. Ms. Littleton-Brewster asked about other firms besides GeoSyntec and Mr. Stevens replied Brown and Caldwell and a few others. He said the Commission could have a full discussion on the subject at its next meeting.

Mr. Stevens also said two decisions by the Tennessee State Court of Appeals give some clarity on Santek's contract extension and the potential need for competitive bidding. He said these two decisions suggest that an extension of the Santek contract may potentially fall outside of the requirements for competitive bidding. He said Santek is operating the Matlock Bend Landfill and is not being paid by the Commission. This is similar to the first appellate decision in which the City of Memphis retained an operator for a recycling center and the operator returned a percentage of its revenue to the municipality. In this decision the Court found that the recycling contract was not subject to competitive bidding because the municipality did not expend any funds for operation of the facility. The other appellate decision discussed stated that the operation of a landfill may be classified as a professional service due to the required technical knowledge and experience and therefore not subject to competitive bidding. The Court stated that a local government should have some authority on who it selects to perform certain professional services without strict consideration of competitive bidding. Mr. Stevens said Santek would have to agree to indemnify the Commission if there was any challenge to any proposed extension of the contract. Further, he stated that if any contract extension was determined to be null and void, then the Commission should revert back to the original agreement.

Mr. Stevens also referred to the Jackson Law which requires local governments to secure two-thirds approval of a governing body before construction of a new landfill or the extension of an existing landfill. He said the Tennessee Department of Environment and Conservation has a specific rule that the Jackson Law doesn't apply to facilities that have been in operations since June 2, 1989. Since the Matlock Bend Landfill was constructed prior to this date, the Jackson Law would not apply to any proposed extension of the Santek contract.

During his Attorney's Report, Mr. Stevens said he wanted to clarify Section 10.3 of Santek's landfill management agreement which states Santek is only required to assess annual Consumer Price Index (CPI) adjustments to the landfill's gate rate and stakeholder rate. He said Santek is not required to pass along CPI increases to discounted volume users, but is to report all rates on an annual basis.

Mr. Jameson said he had three signs fabricated to post on the Commission's property forbidding hunting and trespassing. He said he intends to have them up by the end of October. He said he bought and donated the signs for \$180.

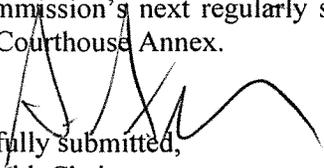
Mr. Jameson asked if it would be beneficial to have some sort of audio or visual recording device to assist with the accuracy of the Commission's proceedings. Mr. Watkins said it was a good idea to consider.

MOTION: Mr. Jameson made a motion for the Commission to buy an audio recorder. Ms. Littleton-Brewster seconded the motion. During discussion, Mr. Art Stewart asked about who would be responsible

for keeping and labeling the recordings. He also asked who would be responsible for public record requests. After further discussion, Mr. Jameson withdrew his motion and asked Kevin to do some research on the issue. Mr. Watkins asked for the issue to be discussed at the Commission's next meeting.

MOTION: Mr. Jameson made a motion to adjourn the meeting at 7:55 p.m. Mr. Dennis Stewart seconded the motion and it passed unanimously.

The Commission's next regularly scheduled meeting is November 8, 2016 at 6:30 p.m. at the Loudon County Courthouse Annex.



Respectfully submitted,
Steve Field, Chairman
Loudon County Solid Waste Disposal Commission