

**MONTGOMERY-OTSEGO-SCHOHARIE SOLID WASTE MANAGEMENT
AUTHORITY
BOARD MEETING #10**

DATE: September 22, 2005

LOCATION: Howes Cave Administrative Complex

Members Present

Charles Buck
Donald Lindberg
Meredith McNeil
Olga Podmajersky
James Powers
William Strevy
Edward Wesnofske

Members Absent

Raymond Halgas

Others Present

Gilbert Chichester
Melissa Morlang
Robin Loske
Marijeanne Broadwell
Chris Chale, Legal Counsel
Karen Sullivan – Otsego Co.
Public

1. Opening

Chairman Wesnofske opened the meeting at 9:40 a.m.

2. Adoption of Agenda

Charles Buck motioned, seconded by Meredith McNeil, to adopt the Agenda. On voice call the Agenda was unanimously approved.

3. Privilege of Floor

Chairman Wesnofske offered privilege of the floor. No one came forth.

4. Minutes of Prior Meeting

Olga Podmajersky motioned, seconded by Meredith McNeil, to accept the minutes of the prior meetings of August 25, 2005 and September 8, 2005 as written. On voice call both sets of minutes were unanimously approved.

5. Reports

Chairman

Chairman Wesnofske reported that he has been working with Mr. Chichester relative to issues with the Transportation and Disposal Contract.

Executive Director

Mr. Chichester reported that he has spent a lot of time over the past several weeks relating to issues revolving around the Transportation and Disposal Contract, which he will share in more detail in an executive session.

Financial Report

Ms. Morlang reported on the August Financial Report as follows:

Page 6 – Transportation and Disposal: Year to date 32% of the waste was delivered to Chaffee Landfill, 50% of the waste was delivered to the Hyland Landfill and 18% of the waste was delivered to the Ontario Landfill.

Page 7 – Trailers Placed at Project Sites: The Authority did not place any trailers at C&D projects during August.

Page 16 – GAT: Each County is projected to be over their GAT. Montgomery County is projected to be 9% over, Otsego County is projected to be 8% over and Schoharie County is projected to be 15% over their projected GAT for 2005. The total aggregate GAT overage is projected to be 10%.

Page 17 – Outside Waste Tonnage by Hauler: The Authority continues to see more outside waste in August of this year than August of last year. At this point the Authority has received twice much this year than last year.

Chairman Wesnofske asked where some of the bigger outside haulers were from. Ms. Morlang responded that they were from Green, Delaware, Fulton and Schenectady Counties.

Page 19 – Recycling Summary: The paper was sent to Neaf and the Authority received \$53 per ton for it.

Page 20 - Budget vs. Actual Expenditures: There are Resolutions on the Agenda relating to the Budget.

Operations Committee

Mr. Lindberg reported that the Operations Committee met on September 15th and discussed the following issues:

- Eastern landfill repairs and reward of bid for such repairs.
- Replacement of the Amsterdam Transfer Station inbound scales and award of the associated bid.
- Update on the Oneonta Transfer Station retrofit.
- Allowing homeowner trailers at the Northern Transfer Station
- Snow handling at the Northern and Schoharie Transfer Stations
- The need for a Part-time Weigh Station Operator
- Update of issues relating to the Transportation and Disposal Contract

Mr. Wesnofske stated that he wrote a letter to Mr. Gay who is the person that wrote a letter of complaint to the Otsego County Board of Representatives relative to not allowing homeowner trailers into the Northern Transfer Station. Mr. Wesnofske explained to Mr. Gay that the Operations Committee is reviewing the matter.

6. Old Business

There was no old business discussed.

7. New Business

Resolution Number 27 Authorizing the Transfer of Budget Funds for Fuel} Sponsored by Donald Lindberg - Seconded by William Strevy

The Resolution authorized the transfer of \$17,850 from Account #4191-40-63 CLF Leachate to the various departmental fuel accounts.

On voice call the Resolution was unanimously approved.

Resolution Number 28 Authorizing the Transfer of Budget Funds for Office Supplies} Sponsored by Donald Lindberg - Seconded by William Strevy

The Resolution authorized the transfer of \$1,500 from Account #9070-61-61 Liability to Account #4331-61-61 Office Supplies.

On voice call the Resolution was unanimously approved.

Resolution Number 29 Authorizing the Filing of an Application for State Assistance from the Household Hazardous Waste (HHW) State Assistance Program and Signing and Associated State Contract, Under the Appropriate Laws of New York} Sponsored by Donald Lindberg - Seconded by Charles Buck

On voice call the Resolution was unanimously approved.

Consultation with Legal Counsel

Charles Buck motioned, seconded by William Strevy, to go into executive session to consult with the Authority's legal counsel relative to the Riccelli Contract.

Chris Chale, the Authority's legal counsel, stated that technically it would not be an executive session but a confidential consultation with legal counsel.

Charles Buck and William Strevy withdrew their motion to go into executive session.

Charles Buck motioned for a recess to consult with the Authority's legal counsel relative to the Riccelli Contract. William Strevy seconded the motion, which was unanimously approved on voice call.

Prior to going into consultation with legal counsel, Mr. Chichester updated the Board on the sequence of events relating to the issues of concerns regarding the Riccelli Contract as attached hereto.

The consultation with legal counsel began at 10:00 a.m. The meeting was called back to order at 11:35 a.m.

Resolution Number 30 Authorizing Engagement of Contract Haulers} Sponsored by Charles Buck - Seconded by Meredith McNeil

The Resolution authorized the Executive Director to seek alternate arrangements to facilitate the ongoing flow of waste from Authority Transfer Stations so as to be in compliance with governing regulations and to meet all other legal obligations of the Authority.

On voice call the Resolution was unanimously approved.

Resolution Number 31 Establishing the 2006 Guaranteed Annual Tonnage (GAT) for Otsego County} Sponsored by Edward Wesnofske - Seconded by Meredith McNeil

Mr. Wesnofske stated that the GAT estimate of 41,436 tons for Otsego County is based on the amount of waste that came over the scales for Otsego County during 2004.

Donald Lindberg stated that the GAT projection is too high. He asked what the projected per ton rate would be for 2006. Mr. Wesnofske responded that if the existing expense was used that was proposed in Ms. Morlang's draft Budget dated August 18th, without contributions from outside waste revenues and the Rate Stabilization Fund, the rate would be 87.50 per ton. Mr. Strevy asked what would happen if the Board did not adopt the GAT for Otsego and Montgomery Counties. Mr. Wesnofske replied that the Service Agreement requires that the GAT and budget be established by October 15th. If the Board does not adopt the GAT, Chairman Wesnofske will ask management staff if they prepared the GAT in compliance with the Service Agreement. Chairman Wesnofske would review it and determine if it was prepared in compliance with the Service Agreement and if so he would send it out on behalf

of the Authority. Mr. Strevy asked if Mr. Wesnofske had the ultimate say in the GAT. Mr. Wesnofske responded that he did not but he is responsible to make sure that the Authority stays in compliance with the Service Agreement.

Mr. Lindberg stated that he would support the GAT if the tipping fee could be kept at \$83 per ton for 2006.

Mr. Strevy asked Ms. Morlang how much money would be needed from the Rate Stabilization Fund to keep the tipping fee at \$83 per ton. Ms. Morlang figured it would take over \$400,000.

Ms. Podmajersky stated that she has a problem with adding 2,600 tons to Montgomery County's GAT for lost waste leaving the system. She indicated that if lost waste is figured into Montgomery County's GAT the same procedures should be used to figure all the Counties GAT. Mr. Buck stated that it was figured into Schoharie County's GAT. Ms. Podmajersky responded that it probably was not enough. Ms. Podmajersky stated that when looking at some areas in Otsego County it appears that less waste was delivered in 2003 and 2004. She indicated this might be because Otsego County lowered the dollar amount they were subsidizing by. She stated that she would vote against the Montgomery County GAT Resolution because she did not agree with adding 2,600 tons for lost waste.

Chairman Wesnofske asked if anyone felt that staff did not prepare the projected GAT calculation in compliance with the Service Agreement. Mr. Strevy asked what kind of question that was when there is a resolution in front of the Board to be voted on. Mr. Wesnofske explained that the Resolution falls under the Service Agreement and should be prepared within the terms of the Service Agreement.

Mr. Wesnofske stated that several months ago he had individual conversations with management staff, due to the issue of public ethics and financial reporting relating to the new legislation adopted, whether they were in a position to prepare any documents that were false or deceptive. Their response was that they are public employees and it is their duty to prepare documents honestly and in compliance with the Authority's agreements. Mr. Wesnofske stated his impression was that staff was operating in an honest manner. He asked if any of the Board members had an impression that staff prepared the GAT in a fashion that does not reflect the actual waste generated in Otsego County.

Mr. Strevy stated that he does not have a problem with the employees but does have a problem with the system being used and he does have a problem with the Montgomery County GAT as it is presented. He stated that he does not believe that the lost waste should be figured in the GAT projection. Mr. Wesnofske asked Mr. Strevy if he felt that the Authority should establish a GAT that allows for the diversion of waste from the MOSA system. Mr. Strevy proposed that the Board should agree upon a number for the GAT. Mr. Wesnofske asked members if they felt they should not agree to the GAT based on the diversion of waste.

Ms. Podmajersky stated that to add 2,600 tons of waste to the GAT just because someone reports that it is being taken out does not make sense to her. She asked what the structured system was for determining the lost waste and if it was used for all three Counties?

Mr. Wesnofske stated that he asked Ms. Morlang to prepare a list of the areas where there was lost waste for Board review, which the Board did not seem to be interested in.

Mr. Strevy called the question.

On roll call the Resolution was defeated with three members (Buck, McNeil, Wesnofske) voting "aye", three members (Lindberg, Podmajersky, Strevy) voting "nay" and two members (Halgas, Powers) "absent".

At this point (11:45 a.m.) James Powers arrived at the meeting.

Resolution Number 32 Establishing the 2006 Guaranteed Annual Tonnage (GAT) for Montgomery County} Sponsored by Edward Wesnofske - Seconded by Meredith McNeil

Montgomery County's GAT at is projected at 43,388 tons for 2006.

Ms. Podmajersky motioned to amend the amount of Montgomery County's GAT by reducing the Town of Amsterdam's tonnage by 1,500 tons and reducing the Town of Mohawk's tonnage by 1,100 tons. William Strevy seconded the motion and on roll call the motion was defeated with four members (Podmajersky, Lindberg, Strevy, Wesnofske) voting "aye", three members (Buck, McNeil, Powers) voting "nay" and one member (Halgas) "absent".

On roll call the Resolution was defeated with four members (Buck, McNeil, Powers, Wesnofske) voting "aye", three members (Lindberg, Podmajersky, Strevy) voting "nay" and one member (Halgas) "absent".

Committee of the Whole

Chairman Wesnofske announced that the Board would enter into a Committee of the Whole to discuss the 2006 Operating Budget.

2006 Budget Appropriations

Chairman Wesnofske asked Ms. Morlang to review the assumptions that she used to calculate the budget appropriations.

Mr. Morlang reviewed the 2006 Operating Budget Assumptions and estimated appropriations as attached hereto. She stated that the 2006 Operating Budget was increased by \$167,978 or 4% from 2005. Ms. Morlang reminded the Board that the Draft 2006 Budget was distributed on August 18th and some items may have changed since then. She pointed out that the main

increase in the budget is associated with the Contingency Fund, health insurance, household hazardous waste reimbursements and fuel.

Ms. Podmajersky questioned the amount in the equipment maintenance line. She understood that by adding an additional person to the equipment maintenance department it would be more efficient and would be less money. Ms. Morlang responded that a full time maintenance person would be more valuable to the Authority than to continue with the CAT agreement, which only dealt with part of the Authority's equipment. For \$21,500 more the Authority would now have a person who would help maintain all of the Authority's equipment and keep it maintained at the standards that the Authority expects, which was lacking with only one person dealing with the equipment. Staff can maintain the CAT equipment in a less expensive fashion than paying for it to be done.

Mr. McNeil asked Ms. Morlang if she had a feel as to how much the fuel appropriation should be raised. She responded that she did increase it by \$21,850, which is 50% increase. She felt that this amount may not be enough but was not sure how much more it should be increased. She stated that if the Contingency Account was kept at \$100,000 it could be used to offset some of the unknown expenses. Ms. Morlang felt that the Legal appropriation of \$20,000 would not be sufficient.

Mr. Chichester pointed out that the Authority is going to have more expenditures in the future relating to several projects and the Rate Stabilization Fund is diminishing. Ms. Morlang stated that there is currently 3.1 million in the Rate Stabilization Fund. Funds in the amount of 1.3 million for financial assurance and \$75,000 for household hazardous waste reimbursement will have to be taken out of the fund, which would leave a balance of about 1.3 million. Ms. Morlang pointed out that if the Board chooses to use \$400,000 from the Rate Stabilization Fund to subsidize the 2006 tipping fee rate it would reduce the fund immensely.

Ms. Podmajersky stated that in the last couple years around \$600,000 and more has been deposited back into the Rate Stabilization Fund per year. For 2005 it is predicted that \$150,000 would be deposited into the fund. Ms. Podmajersky stated that one way of looking at it is that expenses are taken from the earned revenues. She felt that in end the \$1.3 million would not be touched. Mr. Chichester responded that there are unknown expenses for several Authority activities, which will have to come from the Rate Stabilization.

At 12:25 p.m. Chairman Wesnofske called a recess for lunch. The meeting reconvened at 1:00 p.m.

2006 Budget Revenues

Ms. Morlang outlined the estimated revenues as attached hereto.

Meredith McNeil motioned to raise the bag rate from \$3.00 per bag to \$4.00 per bag. Charles Buck seconded the motion and on roll the motion was defeated with four members

(Buck, McNeil, Podmajersky, Wesnofske) voting “aye” and three members (Lindberg, Powers, Strevy) voting “nay” and one member (Halgas) “absent”.

Charles Buck motioned to raise the bag rate from \$3.00 per bag to \$3.50 per bag. Meredith McNeil seconded the motion and on roll the motion was defeated with four members (Buck, McNeil, Podmajersky, Wesnofske) voting “aye” and three members (Lindberg, Powers, Strevy) voting “nay” and one member (Halgas) “absent”.

Mr. Wesnofske reviewed the rates for the outside waste revenues. Currently the Authority charges \$55 per ton for waste outside the service area; \$53 for waste outside the service area for 50 or more tons per day; and \$51 for waste outside the service area for 100 tons or more per day.

Ms. Morlang stated that at this time there is not any hauler who utilizes the discount rates for larger quantities.

Mr. Wesnofske felt that raising the rate from \$55 per ton to \$57 per ton for outside waste was reasonable. Mr. Lindberg indicated that the Authority would lose outside waste tonnage if the per ton rate was raised. Mr. Wesnofske felt that the Authority might lose some of the waste but not a lot.

Donald Lindberg motioned to increase the outside waste rate from \$55.00 to \$58.00 per ton. James Powers seconded the motion.

Charles Buck stated that the added cost of fuel to haul the waste and the proposed per ton increase would substantially decrease the amount of outside waste delivered to the Authority. He suggested that the outside rate not be increase more than a \$1.00 per ton.

Ms. Morlang felt that by raising the rate the Authority was keeping up with current economic changes.

William Strevy motioned to amend Mr. Lindberg’s motion of \$58.00 per ton to \$57 per ton for waste outside the service area, \$55 for waste outside the service area of 50 or more tons per day; and \$53 for waste outside the service area of 100 tons or more per day. Charles Buck seconded the motion.

Mr. Chichester indicated that the Authority could immediately raise the rate for outside waste to test the delivery of such waste. He stated that the rate would have to be raised after the first of year anyway to cover the cost of transportation and disposal.

Mr. Wesnofske suggested that the Board finish dealing with the 2006 Operating Budget prior to discussing any amendments to the current rate schedule.

On voice call Mr. Strevy’s motion was approved with seven members voting “aye” and one member (Halgas) “absent”.

William Strevy motioned, seconded by Charles Buck, to add an revenue line in the 2006 Operating Budget for outside waste in the amount \$175,000. On voice call the motion was approved with seven members voting “aye” and one member (Halgas) “absent”.

Donald Lindberg motioned, seconded by James Powers, to use a Rate Stabilization Fund contribution in the amount of \$300,000. On voice call the motion was approved with seven members voting “aye” and one member (Halgas) “absent”.

Mr. Strevy asked if the Operating Reserve Fund could be used if problems occurred with the transportation and disposal. Ms. Morlang responded that it could be used but would have to be replenished by the end of year. Ms. Morlang informed the members that if the Operating Reserve Fund is used she would have to report it to the bondholders based on the continuing disclosure agreements.

Montgomery and Otsego Counties GAT

Chairman Wesnofske asked if anyone on the prevailing of side of Resolution Number 31 and 32 dealing with Otsego and Montgomery County’s GAT might want to make a motion to reconsider.

William Strevy motioned, seconded by Olga Podmajersky, to reconsider Resolution Number 31 and 32 of 2005. On voice call the motion was approved with seven members voting “aye” and one member (Halgas) “absent”.

Resolution Number 31 Establishing the 2006 Guaranteed Annual Tonnage (GAT) for Otsego County} Sponsored by Edward Wesnofske - Seconded by Charles Buck

Mr. Strevy went on record to say that the Board might do things a little out of order but they do get the work done in the end, which is the important thing.

On voice call the Resolution was adopted with six members voting “aye”, one member (Lindberg) voting “nay” and one member (Halgas) “absent”.

Resolution Number 32 Establishing the 2006 Guaranteed Annual Tonnage (GAT) for Montgomery County} Sponsored by Olga Podmajersky - Seconded by William Strevy

On voice call the Resolution was adopted with six members voting “aye”, one member (Lindberg) voting “nay” and one member (Halgas) “absent”.

Resolution Number 33 Adopting 2006 Operating Budget Appropriations} Sponsored by Charles Buck - Seconded by Meredith McNeil

The Resolution established the 2006 Operating Budget appropriations at \$9,367,980.

On voice call the Resolution was unanimously adopted.

**Resolution Adopting 2006 Operating Budget Revenues} Sponsored by William Strevy -
Seconded by Meredith McNeil**

Edward Wesnofske motioned to amend the Resolution to add a revenue line for Outside Waste in the amount of \$175,000 and a Rate Stabilization Contribution of \$300,000. The revenue to be raised by the tipping would be \$9,028,359. William Strevy seconded the motion and on voice call the Resolution was adopted as amended with seven members voting “aye” and one member (Halgas) “absent”.

**Resolution Number 35 Establishing the 2006 Tipping Fees and other Rates for 2006}
Sponsored by Meredith McNeil - Seconded by James Powers**

Edward Wesnofske motioned to amend the Resolution to fill in the Montgomery and Otsego County’s GAT tonnage for 2006 in the first “Whereas” clause; fill in \$83 per ton in the first “Resolved” clause; and fill in the amounts of \$57, \$55 and \$53 respectively in the second “Resolve” clause. Charles Buck seconded the motion and on voice call the Resolution was adopted as amended with seven members voting “aye” and one member (Halgas) “absent”.

**Resolution Number 36 Confirming Desire to Continue Implementation of Subsidization
Agreements} Sponsored by Charles Buck - Seconded by Meredith McNeil**

The Resolution authorized the Executive Director to execute subsidization agreements with the participating counties for the period of January 1 through December 31, 2006.

On voice call the Resolution was adopted with seven members voting “aye” and one member (Halgas) “absent”.

Amend 2005 Rate Schedule

Charles Buck motioned for the outside waste per ton rate, for the remainder of 2005, always be \$2.00 higher than the transportation and disposal rate. He pointed out that if the transportation and disposal rate changes the Authority is permitted to amend its rates every 30 days. Mr. Chichester stated that the rate for outside waste could be changed anytime.

Mr. Wesnofske expressed his concern of losing the outside waste stream by raising the rate. Mr. Buck and Ms. Podmajersky felt that might be the case but the Authority should not lose money on its transportation and disposal.

Mr. Wesnofske pointed out that the Authority is in a transitional phase relative to its transportation and disposal contract and during this period of volatility it is very difficult to know the effective transportation and disposal rate. Mr. Buck suggested that the Executive Director be authorized to set the rate as the transportation and disposal situation evolves. Ms. Morlang pointed out that this suggestion was made in the past and the Board would not approve of Mr. Chichester setting the rate.

Edward Wesnofske motioned to raise the rate for outside waste for the first 50 tons to \$57.00; \$55 for more than 50 tons and \$53 for more than 100 tons per day effective October 1, 2005.

Discussion pursued regarding the possibility of losing the outside waste tonnage by raising the rate and also the possibility of the Authority losing money by not raising rate.

William Strevy motioned to amend Mr. Wesnofske's motion to eliminate the discount increments for the 50/100 tons per day and make it a flat \$57 per ton rate for all outside waste. Charles Buck seconded the motion and on voice call the motion was approved with six members voting "aye", one member (Podmajersky) voting "nay", and one member (Halgas) absent.

8. Closing

Charles Buck motioned to adjourn the meeting. The motion was seconded by Donald Lindberg and was unanimously approved on voice call.

The meeting adjourned at 2:05 p.m.

Respectfully Submitted,

Robin Loske
Confidential Secretary