

**MONTGOMERY-OTSEGO-SCHOHARIE SOLID WASTE MANAGEMENT
AUTHORITY
PLANNING COMMITTEE MEETING**

DATE: April 14, 2005

LOCATION: Otsego County Office Building, Cooperstown

MEMBERS PRESENT:

James Powers
Olga Podmajersky
Edward Wesnofske
Charles Buck

ABSENT:

OTHERS PRESENT:

Gilbert Chichester
Melissa Morlang
Terry Bliss

1. Opening

Chairperson Powers opened the meeting at 1:15 p.m.

2. Minutes of Prior Meeting

The minutes of the prior meeting of March 31, 2004 were approved as written.

Olga Podmajersky stated that at the last meeting a motion was made asking management to put together information for a County presentation regarding the Authorities planning efforts a draft of which would be presented to the committee. Ms. Podmajersky wanted to know the status of the presentation.

Gilbert Chichester stated that at that time Montgomery County had hired an attorney and an accountant to look into the Authority's finances. Mr. Wesnofske did not feel that the timing was right to make a presentation given the county dynamics. In lieu of a presentation Mr. Wesnofske met with the Montgomery County chairman to discuss the Authority. Based on the discussion it was evident that such a presentation was not appropriate at that time.

Ms. Podmajersky asked if a presentation would now be developed. James Powers stated that the committee would handle all planning efforts. He did not feel that it was appropriate for management staff to take on that responsibility. The issue of the presentation as discussed over a year ago was closed.

3. Long Range Planning

Montgomery County Proposal

James Powers stated that he had discussed the recent Montgomery County proposal with his Board and the result was that Otsego County is not interested in pursuing the proposal. Charles Buck stated that he felt the Schoharie County Board was also not interested in the proposal.

Olga Podmajersky stated that she hoped both counties would specify why they did not wish to pursue the proposal. Mr. Powers stated that he expected the Otsego County letter to simply state they were not interested. Ms. Podmajersky stated that she felt that the MOSA Board should investigate why the other two counties had concern. Charles Buck stated that the MOSA Board has not voted on the Montgomery County proposal. He and James Powers disagreed with Ms. Podmajersky relative to MOSA's obligation to investigate why the other two counties had concern. Both stated that it was a Montgomery County proposal and not a MOSA agenda item.

Edward Wesnofske stated that he did not think the MOSA Board should spend additional time on a proposal that the other two counties did not wish to pursue. Olga Podmajersky stated that she felt the proposal had merit and that MOSA should pursue it.

Charles Buck stated that although he had not done a lot of research, his sense was that the proposal would need to go to the State Legislature. This would delay the project and cost a considerable amount of money.

Olga Podmajersky felt it was time that each of the parties work together. James Powers agreed that cooperation is very important. The Authority was given the job to deal with the garbage in the three county region. This is one reason Mr. Powers feels that selling the assets of the Authority back to the counties as proposed by Montgomery County does not coincide with the purpose of having the Authority.

Charles Buck stated that Schoharie County would like to see MOSA take back all the recycling functions.

Edward Wesnofske stated that if the counties do not wish to pursue the proposal, the Authority couldn't push them to do so. Mr. Wesnofske stated that he presented a list of questions to Ms. Podmajersky relative to the proposal and did not receive a response.

Olga Podmajersky asked what management thought of the proposal. Gilbert Chichester stated that he had two major areas of concern. The first major concern was the risk associated with draining the Authority's reserves. This puts the Authority at risk to finance future operations. The second concern is that there are so many unanswered questions that one cannot reach any conclusions.

Mr. Chichester reported that he had met with Mr. Strevy to express concern about how Montgomery County would deal with Otsego and Schoharie Counties if they were to

reject the proposal. The concern was that Montgomery County might handle it with a public campaign through the press. Secondly, Mr. Chichester wanted to express his feeling that open communication with the counties and MOSA is very important.

Melissa Morlang stated that she felt it was positive that Montgomery County was interested in pursuing options and willing to discuss those options. However, as Mr. Chichester has stated there are so many unanswered questions that it is difficult to make an informed decision relative to the proposal.

Gilbert Chichester stated that the other parties do not necessarily like the Montgomery County proposal but are willing to discuss other options. At his meeting with Mr. Chichester, Mr. Strevy made the statement that Montgomery County is not in the same position as Schoharie County. It emphasizes that each county is in a unique position and that there differences to be recognized.

Charles Buck stated that from a MOSA Board member's perspective the Authority was formed to take care of the solid waste and recycling for the three counties. Losing control and ownership of the facilities does not support the purpose of the Authority.

Edward Wesnofske stated that if the Montgomery County proposal was reviewed by an independent third party it would likely not make sense in that the proposal essentially results in the Authority's working assets being sold while the liabilities are held onto.

James Powers stated that it appeared that Otsego and Schoharie County were not interested but would consider other options.

T&D Contract

Charles Buck stated that from a planning perspective the Authority needs to continue with a T&D contract. The current contract worked out to be the cheapest method for disposal.

Edward Wesnofske stated that there is a need to decide if the Authority wants to stick to long-term exporting or to seek other options. Charles Buck stated that the current contract could be extended for five more years. Olga Podmajersky stated that she agreed to look at a split contract. She felt that an RFP should be issued for all of MOSA's waste as well as for some portion thereof. Ms. Podmajersky felt that setting the contract with one landfill creates a problem with controlling the flow of waste to MOSA.

Gilbert Chichester stated that based on the discussions at the April 5, 2005 Finance Committee he had a meeting with Chris Chale to discuss issuing an RFP for T&D. The conclusion drawn was that management should facilitate direct discussions with the two major players. The Authority is not bound by General Municipal law when it comes to procuring services. The Authority, as a matter of policy, has chosen to use a modified version of Section 103 of General Municipal Law for procurement of commodities and public works. The Authority Board controls the methods to be used to procure services

such as T&D. The last RFP for T&D was issued followed by negotiations with those that responded.

Mr. Chichester stated that the direction of the Finance Committee was that the criteria for selecting a respondent to an RFP would be that both major players would receive enough MOSA waste to ensure that they would continue to deliver the waste they collect to a MOSA facility. Based on this criterion it does not make sense to issue an RFP. The best approach is to make contact with the players and begin to negotiate.

Edward Wesnofske stated that the Authority is essentially trying to control the flow of waste through the T&D contract. This means that the result is not necessarily the most competitive rate.

James Powers stated that an RFP could be issued requesting the best rate for Montgomery County, Otsego County and Schoharie County, as three separate options.

Charles Buck stated that if Montgomery County's waste does not flow to a Waste Management landfill and Otsego County's waste does not flow to a Casella landfill there would be a problem.

Olga Podmajersky asked the status of Riccelli's current contract amendment negotiations. Mr. Chichester responded that Mr. Riccelli has not moved forward with contacting all the current players seeking their interest in extending the current agreement.

Charles Buck stated that one might assume that having your own landfill would solve the issues. However, most municipal landfills are now being operated by the private sector. When the private sector wants control over a landfill they use the waste they collect in the service area as leverage.

Olga Podmajersky asked what the recommendation of management was to get the best deal for the counties. Gilbert Chichester stated that the current language in the T&D contract relative to requiring all the waste collected in the service be delivered to MOSA, is not very strong. Mr. Chichester felt that Mr. Riccelli is not going to be too anxious to get the current players to continue. James Powers felt that Mr. Riccelli has a huge interest in what happens to the T&D contract and he wants the business.

Gilbert Chichester stated that he would like to try to talk with the parties involved before issuing an RFP. Charles Buck suggested demanding Riccelli move forward with continuing the amendments or the Authority will issue an RFP.

Mr. Chichester stated the Mr. Riccelli has an interest in modifying his portion of the agreement as it relates to fuel. He would like to get access to tax exempt fuel. Charles Buck stated that he did not think that was possible in that Riccelli uses his trucks to haul more than just MOSA's waste.

Edward Wesnofske stated that there is a pressure point that is not being considered. As the amendments expire all the waste goes back to the Hyland facility. Mr. Wesnofske

does not believe that Hyland has the capacity to accept all of MOSA waste. Riccelli may have an issue with going back to Hyland. Olga Podmajersky stated that she believes Hyland received approval for an expansion. She suggested that MOSA get an update on Hyland's permit and capacity. Melissa Morlang stated that the tonnage going to Chaffee is about 1/3 of all of MOSA's waste.

Gilbert Chichester agreed that there is the leverage of Hyland possibly not being able to take all of MOSA's waste and that fact does impact negotiations in terms of who we talk to first.

Edward Wesnofske stated that the suggestion being made is to approach the two major players to negotiate in lieu of an RFP. If the result of the negotiations results in a county feeling that they are at a disadvantage there could be a valid complaint.

James Powers motioned to direct the Executive Director to meet with the major vendors in the Authority's waste markets relative to transportation and disposal. The motion was seconded by Edward Wesnofske and unanimously approved.

Flow Control

Charles Buck asked if any of the Counties were interested in Flow Control. Terry Bliss stated that he felt it would be better to have flow control in place first before issuing an RFP. Mr. Bliss stated that with flow control the Authority would be able to guarantee a set number of tons and seek proposals in a competitive manner without the fear of losing a large customer.

Charles Buck stated that his opinion on the legality of flow control is that if the Authority were to have its own landfill flow control would not likely be legal. What made flow control legal in Oneida Herkimer is that they go out to bid for the transportation and disposal. Because the bid is open to anyone in the market place interstate commerce is not harmed. Once you have your own landfill you lose the open bidding process. Terry Bliss stated that he recalled Mike Cahill explaining the importance of soliciting out of state bids. Gilbert Chichester stated that Oneida Herkimer continued its contracts with the haulers as a backup to flow control.

Edward Wesnofske stated that entities with a landfill have the muscle to control waste in the marketplace. Mr. Wesnofske did not feel that the counties were going to enact flow control. He believes that based on the actions of the counties, particularly with the Montgomery County proposal, the counties are more interested in controlling the Authority. Their decisions and actions do not correspond to their stated objective of reducing the subsidies.

Charles Buck stated that if the counties really wanted to eliminate the subsidies they would enact flow control.

Gilbert Chichester reminded the committee that the Authority in conjunction with the three county attorneys developed a flow control law. The law has not been adopted. The

open issue is the additional agreement that dictates the services to be provided by the Authority. Provisions such as policing would also be included in the agreement.

Olga Podmajersky asked how the flow control local law for the three counties would stand up under the "PIKE" test due to the Authority not providing a comprehensive waste program. Charles Buck responded that both Otsego and Schoharie County have recycling programs, collect white goods and hold household hazardous waste collection days. The issue is paying for the comprehensive program. The reason the Authority is not providing the services is because the counties chose not to pay the Authority to perform the services.

Terry Bliss asked if it made sense to look more into implementing flow control. James Powers felt that Otsego County would be willing to study the subject more but would have some reservation because currently their system of a user fee works. Charles Buck felt that Schoharie County would also be willing to study flow control.

Olga Podmajersky stated that she did not know how Montgomery County felt about flow control. She has been reviewing her notes relative to the topic and felt that the two issues were (1) would flow control implemented for the MOSA region stand up to the "PIKE" test and (2) what additional services would be provided and at what cost.

Melissa Morlang stated that how the transportation and disposal agreements are procured could have an impact on whether or not flow control is viable relative to the "PIKE" test. The timing of implementation would be important.

Gilbert Chichester stated that studying the issue of flow control is very critical. To that end it is important that the counties be educated on the subject before asked to decide if they want it or not. Olga Podmajersky stated that she gave her notes to Montgomery County representatives relative to the flow control meeting held in Utica. Gilbert Chichester stated that all too often the Counties try to direct the decisions of the board members they appoint to the MOSA Board instead of the MOSA board members telling the counties how they voted and why. The MOSA board is more qualified and understands the issues better than the County reps.

Mr. Chichester stated that when he met with Bill Strevy, Shane Walters and Jackie Meola they indicated that Montgomery County was not interested in flow control or a landfill. The primary feeling was that if flow control were in place, then MOSA would borrow more money.

Mr. Chichester stated that the cost of waste should be paid by the people who use the services the most. When you take the cost of the debt off the Authority and put it on the counties, the debt is now being paid for based on the tax base and not on the use of the service. Edward Wesnofske stated that when it is put on the tax base it makes the supervisors more involved in the business of solid waste.

Charles Buck commented that flow control does not really matter to MOSA right now because the service agreement serves that purpose currently.

Edward Wesnofske felt that communicating with a county that currently has flow control would be helpful in getting first hand experience about the problems that can be encountered and how they should be handled.

Olga Podmajersky felt that the 2002 meeting in Utica accomplished the task of educating the counties and all three counties attended it. She felt that they should understand it. Charles Buck did not agree in that it is not appropriate to think that those attending the meeting relayed the information in the same manner or accurately. The county players have changed since then.

4. Other Business

No other business was discussed.

5. Closing

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

The meeting adjourned at 2:55 p.m.

Respectfully submitted,

Melissa Morlang
Director of Finance and Administration