

**Policies & Procurement Committee  
October 18, 2012  
Special Meeting Draft Minutes**

Members Present:           Committee Chairman David Damer  
  John Adams

CRRA Staff Present:       Tom Kirk, President  
  Dave Bodendorf, Senior Environmental Engineer  
  Peter Egan, Director of Environmental Affairs  
  Thomas Gaffey, Director of Recycling and Enforcement  
  Roger Guzowski, Contracts and procurement Manager  
  Laurie Hunt, Director of Legal Services  
  Paul Nonnenmacher, Director of Public Relations and Education  
  Maira Benacquista, HR Specialist/Board Administrator

Others present: Marilyn Cruz-Aponte, Assistant to the Director of Public Works, Hartford, CT;  
Edward F. Spinella, Esq., Edward F. Spinella, LLC, Carroll J. Hughes, Hughes & Cronin.

Committee Chairman Damer called the meeting to order at 10:35 a.m. and noted that a quorum was present.

Committee Chairman Damer noted there were several members of the public which wished to address the Committee concerning the agenda item regarding adoption of revised permitting, disposal & billing procedures. The testimony of the following public speakers; Carol J. Hughes, Edward F. Spinella, Esq., and Marilyn Cruz-Aponte, is attached as "Exhibit A";

**1.     APPROVAL OF MINUTES OF THE SEPT. 13, 2012 POLICIES & PROCUREMENT COMMITTEE MEETING**

Committee Chairman Damer requested a motion to accept the minutes of the Sept. 13, 2012, Policies & Procurement Committee meeting. The motion to approve the minutes was made by Director Adams and seconded by Committee Chairman Damer.

Committee Chairman Damer said a comment was left in concerning whether an amendment to the legal services agreement with Brown Rudnick would come before the Board. Ms. Hunt said upon further review by management it was determined provided there is not a higher cost associated with that item there is no need to go back to the Board and the RFS would not permit that.

The motion to approve the minutes as amended and discussed was approved by roll call.

**2.     RESOLUTION REGARDING REQUEST FOR WORK FOR OPERATION & MAINTENANCE AT THE HARTFORD LANDFILL**

Committee Chairman Damer requested a motion to accept the above referenced item. The motion to approve was made by Director Adams and seconded by Committee Chairman Damer.

**RESOLVED:** That the President is hereby authorized to execute a Request for Work with Botticello, Inc. for the operation and maintenance of the CRRA Hartford Landfill as presented and discussed at this meeting.

**FURTHER RESOLVED:** That the funds necessary to support the activities associated with this Request for Work that are not already included in the FY13 Landfill Division Budget for the Hartford Landfill will be funded from the Hartford Landfill Closure Reserve.

Mr. Bodendorf said this resolution provides Mr. Kirk with authorization to enter into a request for work under the existing on-call contract to continue employing Botticello, Inc. until the completion of closure activities around October of next year. He said management is anticipating Botticello's work load will decrease as closure is approached. Mr. Bodendorf said from Dec. 1 through June 30, two full time employees will be needed to maintain the site and more importantly will accept and grade the soil being taken into the landfill, soil which also serves as a revenue generator.

Director Adams asked how many bidders responded to the proposal. Mr. Bodendorf replied four. He said Botticello was awarded the previous three year agreement and noted they have consistently done a good job and with less man power than used by the previous contractor. Committee Chairman Damer said he understands the good working relationship however, the bids typically list out the other bid responses.

Mr. Bodendorf explained the on-call contract which had details and pricing evaluations for the four bidders which responded was presented in January. He said Botticello was found to have the lowest responsible pricing and a single contract was signed. Mr. Bodendorf said when work is needed at the landfill management returns to the pricing which was accepted in January for a three year agreement.

Committee Chairman Damer requested clarification on the pricing situation be added to the write-up. Director Adams asked if he was correct in stating that the on-call contract would exist for the life of the Hartford landfill and that a contractor is being selected for the second year of that contract. Management agreed and noted the contract with Botticello is for three years.

Committee Chairman Damer said the funding for this resolution is split between the landfill division and the landfill closure. Mr. Bodendorf said when the landfill budget was developed management was expecting less work to be done, which is why the rest will be funded from the closure reserve. He said the money generated from the soil contracts is being deposited in the closure reserve.

The motion previously made and seconded was accepted unanimously by roll call.

### **3. RESOLUTION REGARDING COVER SOIL DELIVERY AGREEMENT**

Committee Chairman Damer requested a motion to accept the above referenced item. The motion to approve was made by Director Adams and seconded by Committee Chairman Damer.

**RESOLVED:** That the President is hereby authorized to enter into an agreement with Phoenix Soil, LLC for delivery of soil to be used as contouring and cover material at the Hartford Landfill, and as approved by the Connecticut Department of Energy & Environmental Protection, substantially as discussed and presented at this meeting.

**FURTHER RESOLVED:** That the revenue received from this contract will be deposited into the Hartford Landfill Closure Reserve.

Committee Chairman Damer said this resolution is a routine matter and is for a well negotiated rate. Mr. Kirk noted although Phoenix Soli, LLC is in the business of roasting soils, these particular soils have not been roasted. Mr. Bodendorf said the soils have been through the CT DEP's approval process.

The motion previously made and seconded was accepted unanimously by roll call.

4. **RESOLUTION TO AMEND AN EASEMENT AGREEMENT BETWEEN CRRA & CL&P AT THE SOUTH MEADOWS FACILITY**

Committee Chairman Damer requested a motion to accept the above referenced item. The motion to approve was made by Director Adams and seconded by Committee Chairman Damer.

**RESOLVED:** That the President of CRRA is authorized to execute and Amendment to the Easement Agreement with the Connecticut Light & Power Company, associated with property at the South meadows site, substantially as presented and discussed at this meeting.

Mr. Egan said CRRA owns the property at South Meadows and it was purchased from CL&P in 2001. He said what is known as parcel 3 was purchased in 2008. Mr. Egan said CRRA actually paid for the parcel in 2001 and conveyed the real estate in 2008. He said on parcel 3 there are two switch yards operated by CL&P, which also owns the equipment.

Mr. Egan said CL&P has an easement agreement onto this parcel of land to enter and conduct activities as necessary. He said the 115 kv switchyard is a transmission substation and is subject to the definition of a bulk power station and under governing rules CL&P has to upgrade this sub-station and essentially take the equipment and upgrade it to convey two independent systems to manage the power so that the systems are isolated and segregated.

Mr. Egan said in order to do this CL&P needs to expand a building which is in the easement area, but which would extend beyond the current easement area. He said management is seeking authority to amend the easement agreement to provide CL&P with the additional area they need to expand the building and stay in compliance with the NERC standard to which they are subject.

Mr. Egan said that CL&P had engaged an appraiser to do an appraisal and the area in question is about 2,400-2,600 square feet and the diminished value of the property is about \$8,900 for CRRA. He said CL&P is prepared to pay CRRA \$8,900 and all associated attorney fees and costs associated with amending the agreement. Mr. Egan said CRRA did not see reason to engage a second appraiser, Committee Chairman Damer agreed. He asked if there is any legal obligation under CRRA's rules or requirements for another appraisal. Management replied no.

Mr. Egan said the area has been remediated and there is a deed restriction on this parcel of land that CRRA put in place to comply with US EPA rules. He said management has spoken to region 1 and does not require any additional authority to disrupt the area beyond notification followed by a revision to the as-built in the land records.

Committee Chairman Damer asked if there is any possibility of disturbing the remaining contamination. Mr. Egan replied yes. He said CL&P will be responsible for developing a soil management plan. Mr. Egan said the soil will be managed as greater than 50 part per million PCB's although it does not actually contain greater than 50, which is a more conservative management method.

Director Adams asked if CL&P will reimburse CRRA for any consultants' time. Mr. Egan replied no. He said CRRA will have to do some work itself such as replacing the conduit which runs from the switch yard to the jet turbine facility. Mr. Egan said CL&P has scoped that work out and he did not feel it was appropriate to seek coverage for additional costs.

The motion previously made and seconded was accepted unanimously by roll call.

5. **RESOLUTION REGARDING ADOPTION OF THE CONNECTICUT RESOURCES RECOVERY AUTHORITY'S CONNECTICUT SOLID WASTE SYSTEM PERMITTING, DISPOSAL AND BILLING PROCEDURES (AMENDING AND SUPERSEDING THE MID-CONNECTICUT PROJECT PERMITTING, DISPOSAL AND BILLING PROCEDURES IN THEIR ENTIRETY)**

Committee Chairman Damer requested a motion to accept the above referenced item. The motion to approve was made by Director Adams and seconded by Committee Chairman Damer.

**RESOLVED:** That the Board of Directors hereby adopts the CONNECTICUT SOLID WASTE SYSTEM PERMITTING, DISPOSAL AND BILLING PROCEDURES, amending and superseding the Mid-Connecticut Project Permitting, Disposal and Billing Procedures in their entirety, as presented and discussed at this meeting.

Mr. Kirk said the changes discussed and requested by the public are more than clarifications to the existing procedures. He said the Board's intent to review this policy refers to amending and superseding the original project and it is probably incorrect of him to imply that the changes are merely clarifications.

Committee Chairman Damer asked if the Committee has seen a copy of the public notice. Mr. Kirk noted a copy is included in the write-up. He said red-line copies of the procedure have been provided to the haulers which have an agreement with CRRA. Mr. Egan said a copy has also been posted on the CRRA website.

Committee Chairman Damer said the changes to this procedure were characterized as very significant changes to the way CRRA interprets the material. He asked if that is a correct statement. Mr. Kirk said that it is clear in the red line version that it was optional to deliver recycling residue in the past. He said historically spot waste was delivered at a price well above the long term rate. Mr.

Kirk said this change will recognize recycling residue according to CRRA's position, that it has always been MSW, or municipal solid waste, and therefore controllable.

Committee Chairman Damer asked how many facilities in the state handle MSW from a participating municipality. Mr. Gaffey replied about two dozen. Director Adams asked if that includes C&D facilities, Mr. Kirk replied yes. Committee Chairman Damer asked if these facilities are permitted as recycling facilities. Mr. Egan replied yes. He said management did not contemplate taking recycling residue from a facility that takes C&D. He said such a facility would not necessarily generate material that is appropriate for a waste to energy facility.

Mr. Egan said he felt that would require a clarification. He indicated management contemplated primarily residue from a single stream facility. He said management contemplates the residue coming in from a facility that takes co-mingled containers and paper (a single stream facility) or a facility that takes commercial recyclables which may have 50 to 90% of cardboard but in there would be some garbage, which would be a residue. Mr. Egan said management was referring to such an example when defining recycling residue and noted that description may require clarification. Mr. Kirk said he did not think that description would include a strict C&D volume reduction facility. He said a C&D load would not have garbage; it would have recyclables or C&D.

Mr. Egan said there are two facilities next to the Murphy Rd. location and one of them is a C&D facility and one handles paper. Committee Chairman Damer said to the extent that someone is bringing commercial material to a tipping floor, taking out a few pieces of cardboard, and then wanting to call the remainder of that process residue, clarifications would need to be made as to what constitutes facilities and what constitutes waste streams that CRRA considers part of this.

Director Adams asked what the terms of tonnage are under the current system. Mr. Egan said he did not know. Mr. Kirk said at its peak there was about million tons of C&D, which is much lower now because of the economy. He said the diversion to recycling facilities is much greater than it was a few years ago and as a result guessing at a number is difficult. Mr. Kirk said CRRA does 90,000 tons a year from an IPC center which is about 2%, or a truck load every two days. He said that is a very small number and a typical single stream recycling facility ought to have similar numbers, and if they don't the quality of the bale suffers and the cost of separation suffers.

Committee Chairman Damer said it seems that many of the items in this procedure are not controversial and the update is necessary. Mr. Kirk said it is important that CRRA change the name of the Project for paperwork requirements. Mr. Gaffey said the dilemma from CRRA's business partners perspective is well understood. He said CRRA wants to make it clear that it can accept recycling residue as the former procedures were unclear concerning the acceptance of recycling residue.

Mr. Gaffey said it is important for CRRA to amend the procedures to make it clear that CRRA can accept recycling residue. He said the old ambiguous language will be removed. Mr. Gaffey said this way the issue is resolved. He said the recycling residue CRRA is referring to is MSW. Mr. Gaffey said when a hauler goes to a plant recycling residue is declared as MSW and the ticket also says MSW. He said an issue arises when CRRA's inspectors are on the floor and they find MSW in a load that contains waste from CRRA's participating municipalities. Mr. Gaffey said at that point the hauler is addressed, fined, and often appeals the fine. He said the change provides solid ground for CRRA if the recycling residue language clearly states that CRRA can accept the residue. Mr. Gaffey said this way CRRA is not forcing the haulers to deliver recycling residue from their volume facilities.

Committee Chairman Damer asked if it is possible to revise these procedures in time for review by the full Board. Mr. Kirk said the issue Mr. Gaffey referred to can be resolved, however the remaining issues will still need to be worked out. Committee Chairman Damer asked if re-noticing is required if CRRA makes these changes to the draft procedures. Mr. Kirk said CRRA's notice is sufficiently broad enough to cover these changes.

Ms. Hunt said management will let everyone know these procedures are being revised again. She said there is a timing question associated with getting that notice out. Director Adams suggested those members of the public which may want to address the full Board have clarifications to those specific sections they object to prepared, and perhaps provide some alternative language. Mr. Kirk said management will try and get those edited versions out as soon as possible. Mr. Gaffey said as before CRRA will provide every hauler with a link to the CRRA website containing the red line version and the clean line version after making it clear that further revisions have been made and identifying those sections.

Mr. Kirk said management is suggesting a partial resolution of this procedure be provided for the full Board, at which point the Board can send management back to finish clarification on the more contentious items. He said management did not envision C&D which the haulers see as a potential problem.

Mr. Spinella asked if the changes being made are those mentioned by Mr. Gaffey, that shall will be changed to may, concerning accepting recycling residue. Committee Chairman Damer agreed. Mr. Gaffey added that the old language concerning the recycling residue will be removed as it is ambiguous.

Director Adams asked if these changes conflict in any way with the State Solid Waste Management Plan's definitions. Mr. Kirk said there is no conflict as residue is MSW and is managed that way in Connecticut. Mr. Egan said the SSWM is more specific and noted that CRRA maintains the ability to decide if something is unacceptable.

Ms. Cruz-Aponte said there have been a lot of questions about the definition of this material and percentage of this material as well as tonnage. She asked for that information to be made available for the Mayor of Hartford to review. Director Adams said there should be some state wide recyclable numbers. Mr. Egan said the information Ms. Cruz-Aponte is seeking is provided to CRRA from the municipalities on a quarterly basis. Mr. Egan said he believes this issue is that the haulers and privately owned companies want the ability to generate more in the future than what they are currently generating.

Director Adams asked what the typical fines for haulers are and what revenues are generated for CRRA from those fines. Mr. Gaffey replied that there are many cases which have been on appeal, as well as some significant cases concerning MSW tons which have led to settlement agreements with the haulers as well as significant dollar amounts to CRRA. He said in some cases this is not a little waste. Mr. Kirk said historically CRRA's fines are not for waste that shouldn't come in. He said the fines written tend to concern diversion and that is a large tonnage number and financial impact.

Director Adams suggested working over the same red line version in order to show the revisions in another color. Committee Chairman Damer said the revisions discussed will be added to

the current revisions and the contentious areas will be removed while also providing the changes CRRA requires before November. The Committee agreed to pass the resolution along with the understanding that the discussed changes will be made.

The motion previously made and seconded was accepted unanimously by roll call.

**6. DISCUSSION REGARDING THE PURCHASE OF A RELAY PANEL FOR THE SOUTH MEADOWS FACILITY**

Mr. Egan said this item refers to purchasing a relay panel for the South Meadows Facility and relates to the earlier item concerning the easement on the same property. He said CL&P is upgrading that switch yard in accordance with NERC regulations. Mr. Egan said that CRRA is also obligated this upcoming year to upgrade relay equipment from the transfer station and switchyard to the jet turbine facility and to the waste to energy facility. He said those upgrades will require a trench and putting in a separate communication line which run from the switch yard to the jet turbine facility and to the trash plant.

Mr. Egan said these upgrades will involve somewhere between \$300,000 to \$400,000 worth of engineering and construction work. He said this is based on CL&P's cost estimate, which management feels is reasonable. Mr. Egan said this work will need to be done over the next six to eight months. He said when CL&P upgrades this switchyard they plan on purchasing fourteen relay panels one of which is for the CRRA facilities.

Mr. Egan said the panel is just about \$50,000 and that is CRRA's cost in order to comply with these new reliability standards as CRRA has the obligation to the switch yard from the generating unit upgrades. He said that would include the panel that sits in the switch yard. Mr. Egan said CL&P is in a position where they have received bids and have selected a low bidder to manufacture the fourteen panels. Mr. Egan said CL&P has asked CRRA for some sort of commitment and will then go ahead and order CRRA's panel at the same time.

Mr. Egan said he is not prepared with a write-up and justification for the procurement of the panel at this meeting. He said CRRA's procurement procedures do not contemplate CRRA having another party go out and solicit bids and then bill CRRA for its portion. Mr. Egan said if CL&P has to have a decision from CRRA before the next Board meeting he will likely approach the Board at its October meeting with a request to approve spending around \$50,000 in order to provide a firm commitment to CL&P.

Mr. Egan said management plans to engage TRC to develop a bid in conjunction with CL&P's engineer. Mr. Egan said CL&P is also bidding this work out and they are including in their bid the piece of the scope which will be the piece CRRA will be responsible for. Mr. Egan said CRRA will at see the prices for its piece in advance. He recommended utilizing CL&P's bid to the extent CRRA's purchasing procedures will allow it.

Mr. Egan said the needed funds have been set aside in the facility modification reserve. Committee Chairman Damer said this seems acceptable as long as CRRA has a chance to review and examine the specs ahead of time. Mr. Egan said CRRA would not be publically soliciting the work and this would likely be a non-competitive exception to the procurement process.

7. **RESOLUTION REGARDING SHORT TERM MUNICIPAL SERVICES AGREEMENT**

Committee Chairman Damer requested a motion to accept the above referenced item. The motion to approve was made by Director Adams and seconded by Committee Chairman Damer.

**RESOLVED:** The President is hereby authorized to enter into a Short Term Firm Disposal Capacity Agreement for the provision of acceptable solid waste and acceptable recyclables services with the Connecticut municipalities, substantially as presented and discussed at this meeting.

Mr. Kirk said there are still half a dozen towns which have not finalized their arrangements for waste disposal post Nov. 15, 2012. He said in the unlikely event that a town approaches CRRA and needs a place to take its waste that cannot be done after the 15<sup>th</sup> unless they have an agreement with CRRA. He said this short-term agreement provides an opportunity for the towns to bring their waste to CRRA while their final decisions are made.

Mr. Kirk said the agreement is priced at CRRA's cost for disposal and is unlikely to be utilized. Mr. Egan said CRRA has a contract with waste management to take diverted waste to Massachusetts at \$83.00 a ton. He said CRRA does not use that as there is another diversion mechanism and this is a worst case scenario back stop for member towns. Mr. Kirk said the existing member towns will not be affected negatively if this agreement is utilized. He said the contract has been stripped down to be very simple for the towns which may find themselves in need.

Director Adams asked if there are any towns which may fall into issues with the 6b provision. Mr. Kirk said that may happen but on the other hand without an agreement CRRA cannot accept their waste. Director Adams asked if there are any municipalities which provide their own hauling that CRRA does not already have an agreement with. Mr. Egan said that may happen and in that case CRRA would bill the hauler.

The motion previously made and seconded was accepted unanimously by roll call.

8. **DISCUSSION CONCERNING THE ELLINGTON TRANSFER STATION**

Mr. Egan said this item had been discussed with the Finance Committee earlier that day. He said after Nov. 15, 2012, a significant amount of the tonnage which flows through the Ellington Transfer Station will no longer come in. He said Enfield and Vernon have signed with other providers. Mr. Egan said Ellington formally took in about 30,000 tons and management is expecting after Nov. 15, 2012, for that number to drop down to 8-10,000 tons.

Mr. Egan said CRRA is closing Ellington Transfer Station in response effective Jan. 1, 2013. Mr. Kirk said the closure will be referred to as a suspension of operations as it will not be closed indefinitely and everything is going to stay active from an operations standpoint. Mr. Egan said it will save the Project budget between \$250,000 and \$300,000. He said the savings will be added to the cash shortfall contained in that budget.



Committee Chairman Damer asked how many employees are at that station. Mr. Kirk said CRRA has one full time employee, and the contractor, CWPM, has employees there in addition to the truck drivers coming through the transfer station. He said there is a cost to ending the CRRA employees' time there however it is worked into the expected savings. Mr. Kirk said there is also a cost associated with Ellington and any other towns which may be diverted or direct delivered and CRRA is obligated to make those towns whole according to their contract. Mr. Egan said that applies to the Town of Ellington and possibly some of the private haulers which are bringing commercial waste to Ellington.

Mr. Kirk said the five towns which have historically used Ellington are South Windsor, Ellington, East Windsor, Vernon, and Enfield. He said three of the towns are taking their waste elsewhere and South Windsor as well as Ellington is expected to sign with CRRA.

### **EXECUTIVE SESSION**

Committee Chairman Damer requested a motion to enter into Executive Session to discuss pending litigation, trade secrets, personnel matters, and feasibility estimates and evaluations. The motion made by Director Adams and seconded by Committee Chairman Damer was approved unanimously. Committee Chairman Damer requested that the following people remain for the Executive Session, in addition to the Committee members:

Tom Kirk  
Laurie Hunt, Esq.  
Peter Egan  
Tom Gaffey

The Executive Session commenced at 2:25 p.m. and ended at 2:43 p.m. Committee Chairman Damer noted that no votes were taken.

The meeting was reconvened at 2:43 p.m., the door was opened, and the Board secretary and all members of the public (of which there were none) were invited back in for the continuation of public session.

### **ADJOURNMENT**

Committee Chairman Damer requested a motion to adjourn the meeting. The motion made by Director Adams and seconded by Committee Chairman Damer was approved unanimously by roll call.

The meeting was adjourned at 2:43 a.m.

Respectfully submitted,



Moira Benacquista  
HR Specialist/Board Administrator

## Policies and Procurement Committee Meeting Minutes Oct. 18, 2012

### Public Comment Portion

#### **First Speaker, Carroll Hughes representing the National Solid Waste Management Association**

Mr. Hughes, "You know I was in DEP when we created this 1972 legislation and when the haulers contacted me with what they were doing and I kind of read back over the statute, read over a lot of the details that were in it and I remember very much all the discussions that occurred at the legislature; discussions that occurred within the agency, with individual legislators and what the full intent was of creating Connecticut Resources Recovery Authority. And I am reminded as I have been sitting through the Governor's Recycling Task Force which I think is coming out with a very significant product which you all should be very aware of.

I sat there and listened to discussions about what is being done and what is not being done and I plan to speak on that later in the legislative session when it is before the General Assembly. One of the things striking to me is how much CRRA was supposed to foster recycling. That was the prime purpose, other than just taking care of refuse and disposal, waste to energy, and actually they were actually managing a couple of landfills at the time. And I ended up representing scrap metal processors afterwards, refuse haulers, and I kind of reminded them of what the mission was; what you guys were supposed to do. And I am reminded by the legislation that I read this morning again and I am very concerned that what you are doing by mandating that the residual from the recycling facilities is going to be required to be disposed of at the resource recovery plant and not giving the haulers an incentive to continue to do what they have been doing.

Most of the haulers that I represent are running recycling facilities that collectively are probably representing a lot more recycling than you guys are statewide. And I think you all know that based on the small stations, the larger facilities. That's kind of what they are supposed to do, we think. You guys are not paying for that. You didn't create it. You didn't foster it, except if you want to include the highest tonnage charges in the Northeast, which gave an incentive to my people to go take the material out. To remove what they could by hand or by whatever other means they could get together to do that. Part of the incentive was that the residual they could dispose of at a lower rate which helped to foster the recycling that occurred and the creation of some of those plants and the major investment my people have made with their facilities, their collection systems and whatever else they could do because there has been no other incentive for them to do that.

Originally the thinking was that CRRA would be giving seed money; would be doing bonding; would be providing resources and hoping that private industry could do all this. That was the whole thought behind this whole thing. A part of the reason it wasn't put forth was a lot of

industries were threatened at the time. The existing paper dealers used to be a lot more than there are today; the scrap metal processors and people that generally handled materials including the refuse haulers. It was hoped that CRRA would be giving incentives, would be giving grants out; would be giving financing which really never occurred with my private people ever since 1972 and I think you all know that. I am concerned and you should be concerned also that there is a new purpose that is progressing through that recycling committee and a lot of people could say that the reason for not going with this major system is because we are recycling in great amounts in various places statewide and there is fear as a factor, and I will say it at the public hearing on that issue.

I think at this point in time it might be in your best interest to recognize the proliferation of recycling that occurred at the private level and reward that effort by not punishing those recyclers by requiring them to take the residue to your facility at a higher price and actually jeopardize the economic stability of some of those transfer stations because that's what this proposal is going to do. I think that it would be appropriate and proper if you guys would show some good faith here and maybe we can all speak to the same song book coming February and March in regard to what has happened in Connecticut; what the private people are doing; what you are doing and see whether that is a suitable purpose of all this being done. That we may not need the elaborate structure that is being planned right now to be advanced to the General Assembly, hopefully in the next session. So that's my suggestion and I think you can look at what's out there. We are doing our own surveys right now of our recycling. We will have those numbers down. We will have those in a month or so with all the resources and what we are doing at all those private facilities; those small facilities; what aid and assistance we are giving to the municipalities at each one of those recycling facilities and I think the recycling part of it is going to be major.

So next session I think you'll want to be with some of your achievements that are out there collectively which we have all done and we in consolidation with you and how valuable that is to the whole issue of what structure is going to be functioning to do complete recycling after the legislature is over, in the 2013 session. I don't know if all you people have been aware of those sessions but clearly there is a, not a competing structure, but a completely new structure that is going to be created that suggests that out of those hearings. That system is, in fact, it almost reads like the creation of CRRA in 1972. What's going on over there with that committee and the words that are being used; what they are planning to put into place and what they are concluding is not being done, which is why they are going to create this new system.

Director Damer, "thank you for your comments. We will just have to wait and see what comes out of that. We are following it closely and certainly CRRA is committed to the best of our ability I think those of us on the board do foster in recycling wherever we can. I just want to clarify one thing. I take it your comments are in relation to the item on the agenda today which is the revisions to the system permitting disposal and billing procedures. Is that the context?"

Mr. Hughes., “Yes”.

Director Damer, “Okay”.

Mr. Hughes, “yes I thought you knew that. Your name is?”

Director Damer, “I’m Dave Damer. I’m the Chairman of the Committee. My understanding is that the revisions we are proposing in here, what management is proposing is only to clarify that the waste that is being separated, that it is being recycled. That the residue from that, if it’s coming from a municipality that is a participating municipality. In other words, if the waste without separation were just supposed to come to CRRA that the waste after CRRA still comes to CRRA. That doesn’t have anything to do with the towns or the municipalities that might not be participating. I’ll ask management is that.....”

Mr. Kirk. “It essentially clarifies the existing understanding or existing procedures that provide for, if the residue originated in a town that has committed its waste to the system. It should stay in the system. And if the waste is generated or shipped out of that facility that’s in a project town, its MSW generated inside of that project town and would therefore be that facility”.

Mr. Hughes, “at the least the byproduct of that manufacturing project of you want to look at it that way. A recycling facility considers the byproduct of the manufacturing process after we remove all the waste from it and do what we have to do and a lot of it is not member town waste. Ed can speak more to the other part of it.”

Director Damer, “I think at this point we like to keep the public comment somewhat reduced. We take about a 5 to 10 minutes for public comment. Have you submitted any written comments to CRRA itself on the proposed rule changes?”

Mr. Hughes, “no”.

Director Damer, “if there is some misunderstandings that might be clarified certainly that should happen”.

Mr. Kirk, “you might want to consider putting together a document explaining your situation that we could put in the hands of the directors before the meeting this Thursday.”

Director Damer, “a week from today that might help the understanding a little bit. I presume you would like to speak to the decision making body, which is the full Board, next week. This is in preparation for that. What this committee would do is move this to the full Board for next Thursday. So I would expect you would want to have the same comments next week and it might be helpful to have it laid out so we can have all the Board familiar with it before the meeting starts”.

Mr. Hughes, "I just thought it was important to bring in the historical aspects of it and how the system has operated since "72" and it's a sensitive issue with my people to the extent that their recycling...they use that as part of their subsidy of the facility of their employees of the yield that comes out of those plants. It's not something I would think you would think about but I think it has a heck of a lot of bearing right now because of the other scenario that is ongoing which we expect to speak at the public hearing in February or March and I would have to call it at that point an extreme distance to recycling that's occurred in the previous years. Thanks a lot. I would have to characterize".

Director Adams, "so what's your solution?"

Mr. Hughes, "my solution is to leave it the way it is."

Director Adams, "which is to allow that residual to go wherever."

Mr. Hughes, "wherever."

Director Damer, "even though the towns where that residual was created have committed to being part of the CRRA system."

Mr. Hughes, "somehow you may have to adjust that. I understand you have some contracts that are staggering you know in terms of their longevity and their terms and that right now are not just threatened by what I'm saying. It's threatened by the whole system that is looked to be not replacing you but supplementing you with at least they are looking to create right now. They have concluded over there that there is a significant amount of non-recycling from solid waste. If there is one thing pervading that whole group that's meeting, their consultant has given that same scenario, though there is a huge amount not being provided for. I'm trying to link the two issues together, if I might. I'm not your enemy here. I'm just saying that there are more problems around the corner than we see."

Director Damer, "that's a good way to characterize it. We certainly don't see you as our enemy, anyone doing recycling are to be applauded.

Mr. Hughes, "thanks I appreciate it."

Director Damer, "okay. Mr. Hughes, thank you".

## **Second Speaker, Edward J. Spinella, Esq., representing CRRA haulers**

Mr. Spinella, "Good afternoon, my name is Edward Spinella and I represent some haulers that have contracts with the CRRA, I also represent clients who have facilities that are recycling facilities that will be affected by some rule changes. Specifically I'm referring to, on your

agenda, Item No. 7, and if you are familiar with the proposed rules I'm specifically concerned about the following changes which by the way are not clarifications. They are material illegal changes that are not acceptable to my clients at all. The definitions of 1-1.1 , 1.1B8, 1U. It's in the definitions Peter, it's the definition of acceptable solid waste, because now you are including recycling residue. So I'm just referring to the specific sections. And then I'm referring to 1.1U which I am highlighting now, non-project, and non CRRA Recycling facility. I'm highlighting the definition of recycling residue 1.1DD. definition 1.1M M waste facilities which is a new definition for waste facility. It's not a clarification.

Director Damer, "if I could just interrupt for a second, do you have any of these in written form?"

Mr. Spinella, "no, I can go over them with Tom or Peter if you need to after we discuss them. I'm referring to 1.1G which is the deletion of recycling residue, these present rules provide that recycling residue is not required to be delivered to the CRRA and 1.1G the definition is part of that position. As of right now without this rule change recycling residue can be offered to the CRRA and CRRA then can negotiate with the hauler a tipping fee. You will recall in the present rules, there is an appendix that discusses the optional side of the recycling residue, Appendix A, which is entirely being deleted. Continuing where we get to the core part of the argument, we are referring to 4.2 which is the delivery of recycling residue and the mandatory delivery of recycling residue, I believe it is 4.9. I had some prepared comments, a few things I think need to be said very quickly because I believe the members of this committee are confused.

This is not a clarification of the present rules and procedures. This is a significant material change. Recycling residue has never been required to be delivered to the CRRA and the present rules which have existed for many, many years. It has been made clear that recycling residue at the option of the haulers can be offered to the CRRA and if the CRRA chooses to accept the recycling residue, then the hauler and the CRRA negotiate a tip fee. So to say that you are going from that, which was an optional basis, to a mandatory is not a clarification. Since the history of the CRRA, recycling residue has never been required to be delivered to the CRRA, never. Now what these changes do is recycling residue they are speaking about here is not from garbage.

The recycling residue is from C & D facilities and from IPC's (Intermediate Processing Facilities) and from single stream recycling facilities. So, for example, my clients who have spent millions and millions of dollars to create facilities to handle C& D which CRRA does not handle. We locate those places; spend millions of dollars. We make contracts with vendors. We make contracts with our customers. C & D come to our facilities, we process it. According to this new rule, after we process that C& D, you will have recycling residue. CRRA is now saying that we are required to bring them that residue. We can't negotiate with them a tip fee. We must bring that residue to them. Go ahead."

Director Damer, “are these facilities that you are talking about permitted as recycling facilities?”

Mr. Spinella, “yes, and reduction facilities.”

Director Damer, “what portion is typically at these recycling vs. residue facilities?”

Mr. Spinella “it depends on the facility.”

Mr. Spinella, “it could be 50% residue. It could be 10 – 20% residue. A lot depends on the equipment that we chose to put into the facility. Now taking that a step further, for example, Mr. Egan and Mr. Kirk know because we told them that we are contemplating putting six to eight million dollars’ worth of equipment right next door to you in the Murphy Road facility to process C & D and bulky waste that can come from member towns and nonmember towns. CRRA has no right to any of that waste. They don’t control it. The towns don’t control it. It’s all entirely voluntary. Now because Murphy Road is in a member town, assuming that Hartford signs, CRRA are saying that residue must go to it. That’s not a new clarification. That’s a substantial change.

You are not going to get any private business that’s going to put six or eight million dollars into a facility to put the equipment in if it cannot go to the market place to bring the residue wherever it chooses. Because we all know CRRA’s tip fee is not a market tip fee. It’s substantially higher than the market place. We need to lower tip fees or the ability to get lower tip fees to subsidize our operation. It’s not going to happen if that residue must go to the CRRA. It’s not going to happen. And you are not going to get private industry to create these facilities to recycle if they are required to bring their residue to Mid-Conn. All we will do is go over the line to East Hartford and we’ll move our facility. We’ll move the forty employees. We’ll move our \$400,000 of property taxes from Hartford to East Hartford. We’ll move it to any non-member town because we cannot compete in the market place if we have to bring our residue to CRRA which can be as much as \$80 - \$85 a ton for a tip fee next year.”

Director Damer “am I correct in that you would have no difficulty in bringing residue to CRRA that is generated, the bulk that comes from towns.”

Mr. Spinella, “residue is not generated from a member town. If we don’t process that load, bulky waste C & D, paper, commercial recyclables, CRRA has no right to commercial recyclables as you know, only residential recyclables. So my company, my client accepts commercial recyclables and processes those commercial recyclables if there is residue. That residue came from some member towns but you have no control over commercial recyclables, so you have no right to that residue. And if we process that commercial residue in a member town, our facility is located in a member town, CRRA is saying with these new rules that residue must go to CRRA. But you could have never taken that load of commercial recyclables until it was processed so

we're manufacturing, we're using a manufacturing process that happens to create residue. The residue was not created in the member town. The residue was created in the towns where we had the facility to process."

Director Damer, "it's created from material that came from a member town."

Mr. Spinella, "what you have no right to. You have no right to commercial recyclables by statute unless it's by contract. Commercial recyclables are not flow controlled."

Director Damer, "you have now taken recyclables out. I'm just trying to understand this because it seems to me you've got the recyclables and then what's left is not recyclable."

Mr. Spinella, "you create residue. The residue was not just there in a separate container with the commercial recyclables. The residue is mixed in with the cans, in the papers, the cardboard. There has to be a process made which costs a lot of money, so you ultimately create the residue. We are not going to do that. We are not going to do that. This is not a clarification of a rule. This is a major change in the way CRRA has been doing business since its inception. It has never ever required residue delivered to it, never. Now on technical arguments, because I don't want to take your time, you've got some serious problems with this proposed rule. Your public notice in the Law Journal is illegal and insufficient. If you look at the statutes 1-121, the public notice must sufficiently, in sufficient detail advise the public of what proposed changes you're making. If you look at that published notice, you will see nothing whatsoever that gives the slightest indication that you're changing the definition of acceptable solid waste, and that you are changing it to include the residue. The reason the notice should be sufficiently detailed is so that the people who receive it know whether or not they have to come here. If you look at that notice, not in a million years would you ever believe that the CRRA is contemplating making this change to the definition of acceptable solid waste. So you can go all you want to your Board and have the Board do whatever they want."

Director Damer, "this was presented to the haulers back earlier in the month."

Mr. Spinella, "that is not true. I was at the haulers' meeting. The only way that we had any idea that this was coming down is that we had heard. We saw the public notice in the Law Journal. When we came to that meeting with Mr. Gaffey and some of his very general comments and by the way we are going to change the definition of acceptable solid waste. That doesn't make the notice legal. If you didn't happen to show up at that meeting and I hadn't been to a haulers' meeting in several years,"

Director Damer, "it was publicly noticed."



Mr. Spinella, "right. You can send this to the Board if you want and the Board can do whatever it wants. It's going to be illegal if the Board decides to go on those changes. It's not going to happen. Additionally the rules are ambiguous and confusing. When we first learned about this, my clients spoke with Mr. Egan and Mr. Kirk I believe, or maybe Mr. Egan alone. And they said, so you realize you are asking me to bring residue from my C & D facilities and my bulky waste facilities. Peter will correct me if I'm wrong. I understand that Peter said we weren't contemplating that. We weren't thinking about the residue from those facilities. We were thinking about residue from bottles and cans. So at the time this rule was contemplated, we don't even know what the CRRA was contemplating. There is a lot of confusion over the definition of residue."

Director Damer, "I can't predict right now how it's going to come out of committee whether we will be recommending this go on to the full Board next week or not. It certainly would be helpful you can hear our discussions later in the meeting. If it goes on to the full Board, I think some written comments in this regard would be helpful".

Mr. Spinella, "Right."

Director Damer, "and the sooner you can get them to the management so they can get them distribute it to the Board members that would be helpful too."

Mr. Spinella, "I appreciate that."

Director Adams, "where does the waste from your facility next door currently go?"

Mr. Spinella, "We choose to bring it to the market place. We don't bring the residue to CRRA. They have never had an interest in it. We have never negotiated with them any type of arrangement or a tip fee. We are always willing to negotiate and test CRRA. As you know, we did that with Nutmeg Road. The point, we go everywhere with it. We go wherever it makes the most sense. It is environmentally safe. Consistent with our permit and makes the economic sense that we can continue to do our operations. It goes on rail a lot."

Director Adams, "so it doesn't go to an in state trash to energy facility."

Mr. Spinella, "some of our stuff I believe depending on the facility. Some of our residue goes to other burn facilities, but not CRRA."

Director Adams, "just trying to understand a little of the economics here of your question. Basically the ton of recyclables is about \$120 to \$140 depending upon what the mix is and what the markets are."

Mr. Spinella, "it's possible. I don't know the numbers. All I know is it depends on what it is. How contaminated it is."

Director Adams, "Right, I remember when you were negotiating with Central Connecticut Solid Waste Authority I think you had about a 12% rejection rate and if you were above that 12% rejection rate basically residual then that load or that municipality could be penalized for these recyclables."

Mr. Spinella, "I believe it went to 20% Director Adams, its Adams right."

Director Adams, "right."

Mr. Spinella, "I think we had a sliding scale I believe 0 to 10, we paid 100% of the \$22.50. I think it was 11 to 15 we paid 100% minus the contaminated percentage. I think everything over 20% was a load that was entirely rejected."

Director Adams, "so using round number \$60 a ton basically it's costing you \$6.00 a ton of recyclables plus or minus to get rid of your residuals. So what we are arguing over here is a few dollars per ton of recyclables to get rid of the residuals from a plant like that. I'm not talking about C & D facilities."

Mr. Spinella, "right. Well first thing is you can't even accept it because it still includes recyclables."

Director Adams, "right."

Mr. Spinella, "So under the CRRRA permit, if you follow the CRRRA permit you can't burn, even though it's contaminated it is still recyclables. I don't believe you can burn it. So you can't get it anyhow. The residual cannot include recyclables."

Director Adams, "is it recyclables or residuals to solid waste?"

Mr. Spinella, "you're calling it under your definitions, acceptable solid waste. I'm not agreeing that under your permit that you can burn it. But Director Adams you're going to get different residue depending on the facility, depending on the C & D."

Director Adams, "I understand."

Mr. Spinella, "Right, regardless of what the amount of money is; we have to operate the business you know it's important to us."

Director Adams, "okay alright, so I can education myself, in a C & D facility what ends up being residual and non-residual?"

Mr. Spinella, "what percentage, I don't know."

Director Adams, "I'm sorry, what materials? What kind of materials?"

Mr. Spinella, "when you're going to think of a typical construction job at your home. You're going to have cardboard in that container. The contractor is going to throw in that container cardboard. He's going to throw in the container plastic. He's going to throw in the container metal. He's going to throw in the guy's sodas. The neighbor comes and throws their recyclables in there. So you're going to have that type of material. Okay that's going to be taken out. Now you're going to have some residuals. I would think at the typical C & D facility there probably won't be a lot of residual that the CRRA could accept and want to burn.

I think what you are really focusing here is the key to us, a facility that is accepting among other things commercial recyclables. Those commercial recyclables will have a fair amount of residual in them. We process all of those commercial recyclables as part of our business model and our ability to subsidize our entire operation. We want to be able to bring that residual waste to wherever we can get the best price. And keep in mind we have contracts in place with vendors, with customers that are already in place where we have these facilities and those are all based upon the history and the statutes in place.

The history is that CRRA has never ever made any demand for the residue. And so we're not about to break those contracts and we're not about to pay those damages. If somewhere along the line this rule is in effect, and if the folks decide litigating this and challenging it and going to court on all the arguments we have, we are going to look to the CRRA for damages for interfering with all those contracts. We agreed that when we sign a contract with a hauler or a town we agree as those documents say that changes can be made to the rules and procedures. We have no problem with the rules and procedures being changed as long as they are like insurance. You want to have things in here about insurance now. You want to make some other changes. Those are always contemplated when you have a long term relationship that you are going to have some changes.

We agree to those and we agree that those can be unilateral but there is basic contract law that says when you make that agreement that you are going to agree to modifications and changes you never ever agree to unilateral material cardinal changes to the contract that changes the entire contract. This is a material cardinal change to the contract that CRRA is unilaterally trying to impose upon the towns and on the haulers. Nobody sitting here will ever tell you honestly that it was ever contemplated that when we signed these hauler agreements prior to July 1, 2010 or when the towns signed all these tier contracts that they ever thought in a million years that

CRRA was going to change the rules and procedures to change the definition of acceptable solid waste to require residue to be delivered to the CRRA. That was never contemplated.

The easiest way to say that that would never have been contemplated is think of the history of the CRRA since its inception. Never once have they ever made any effort to get that residue from the towns or from the contractors or from the recycling facilities. And I don't understand why we are having this big fight, which it will be a fight if you go forward on this. Mr. Kirk said that every Board meeting I have no concern about getting my 712,000 tons that I need for Mid-Conn. If he feels as confident as he says he is, and I have every reason to believe he is going to get the 712,000 tons why are you making this big push for residue? You don't need the residue. But I'm telling you straight out we need the ability to go with that residue wherever we choose in the market place or we can't survive. And we are not going to go quietly away. We are either going to keep these operations where they are or we are going to move them. You are not getting this residue. No way. No how.

We want to be your partners and we have always sat down with Mr. Kirk and Mr. Egan to try and work out as many things as we can, and 99% of the times we have. The only thing that I would assume that my clients would be willing to do, we have millions invested already, is we'll offer the residue and we'll negotiate it. I would assume that they would do that just like we are going to do with our Nutmeg Road waste. We would love to continue this new business with the CRRA if it's competitive and reasonable on its tip fees. But for us to be required to bring the residue to CRRA when CRRA is reporting to the public that the tips fees could go to \$80 - \$85 a ton in your next fiscal year unless you get this special accommodations from the legislature on the power. How could you never expect us to be able to survive in a member town if we have to bring our residue to you for \$80-\$85 a ton? Thank you for your time."

Director Damer, "we need to get on with the rest of the agenda. Thanks for your comments. Again I can only encourage you to put some of this down in writing."

Mr. Kirk, "if you're going to put something down in writing if you could get it to us before Wednesday, I can get it in their hands before the meeting."

Mr. Spinella, "what disturbs me about what you are saying right now to me and we have a good relationship. What disturbs me is it sounds like this is a rubber stamp"

Mr. Damer, "what I said is if it goes to the Board it would behoove you to have something in their hands before."

Mr. Spinella, "we may do that I agree, thanks for your help. Thank you."

## **Public Comment: Marilyn Cruz-Aponte, present on behalf of the Mayor of Hartford**

Ms. Cruz-Aponte, "I am Assistant to the Director of Public Works and I am also an advisor to Mayor Segarra. He is away and he asked me to attend this meeting and actually you know the haulers have been discussing this in detail from their respective. I came to speak about this particular change and in particular pg. 20 and 21 where we go from residual, recycling residual shall be provided. I come from a municipal perspective to share concerns about the City of Hartford's interest in growing green development in the city. The mayor has been every committed by virtue of even participating on the CRRA board, which is a first for the City of Hartford that a Mayor sits on the CRRA Board."

Director Damer, "he's actually a member of this committee."

Ms. Cruz-Aponte, "I think we have some concerns about this only because we are really committed to the development of green businesses in this city. It is very difficult to talk about such a substantial change and to not understand the why at this juncture, this residual amount of material becomes an issue only because we are sort of beginning to work with our development office to develop green businesses in this city and one of the areas that is of concern to us is how we become business friendly. How do we assume a role in encouraging recycling businesses and at the same time when we get to the point of signing our MSA."

Mr. Egan, "I thought you had them with you today."

Ms. Cruz-Aponte, "I hoped I would, and when we sign our MSA we are put in a position where we have to, under Tier I, participate in the enforcement of flow control. So we are then put in a position where recycling businesses that can much more effectively service the population of entry level employees that live in our city can afford opportunities to many more people for work and for economic growth in our tax base. We are faced with a situation which on the one hand says we want you to develop a business, but by the way even though it's never been done before your residue now has to fall within flow control. It's our contract our MSA requires it. Just as we are getting to the cusp of trying to grow green businesses we get an action like this that raises the question about how does it help our City to be viewed as business friendly. So I raise that as a concern because a business like Murphy Road may want to expand in our city.

We are a member community, our hands are then tied. We had an involvement in bringing Canadian mattress recyclers to Connecticut. That recycler is located in Bloomfield. We wanted him located in Hartford but it would have been the same thing. If that mattress recycler went through the process and had residue that residue would have to show up here. Now if that mattress recycler decided that the staples that become a big ball, he could sell to someone else at a better price, or the staples that are a big ball can become a swap with a hauler or some other

company so that one man's trash is another man's treasure, this has an impact on the capacity of for that residue to really become potential revenue for that business. So again the haulers are talking about it from their perspective as business models and what their bottom line is, we're looking at it from a municipal perspective as to how does it make us, as a municipality, much more business friendly in supporting the growth of recycling businesses in this City. Anything that is going to make it any more difficult financially is a problem for our City; we already have enough challenges for an urban area. I think this really needs to be discussed a bit more fully in terms of the impacts on a municipality as well.

I do not represent the Governor's Task Force on modernizing recycling, but the major discussion on that Committee is how to take material waste streams and make them an opportunity for economic development and job creation. Does it sync with where some of us are going with modernizing recycling? I'm not sure what the reasons are, and on some level I have to respect the business model and the business planning that has to be done by CRRA. I am sure that the Mayor would want to understand how this residue supports and benefits CRRA but I think that we have to look at how this impacts other as well. I am not comfortable with decisions that are made without input, and I don't know that the municipalities think, and I have spoken to a number of municipalities. I did not get this because I am not a hauler I got this through one of the task force members and I was just interested in reading this because anything CRRA is important, and anything that goes to our flow control requirement under the MSA (the contract we hope we will sign) is also important. I know that you had a lot to cover and I think it is important for this to have some more thought and dialogue put into it with municipalities that are interested as far as any sections and procedures are a little bit more business friendly around recycling business development".