

**Policies & Procurement Committee  
September 14, 2006 Meeting**

**Minutes**

Members Present: Raymond O'Brien, Committee Chairman  
Benson Cohn  
Mark Cooper  
Theodore Martland

CRRA Staff Present: Tom Kirk, President  
Laurie Hunt, Director of Legal Services  
Floyd Gent, Director of Operations  
Michael Tracey, Operations Manager, Construction Management  
Steven Yates, Air Compliance Manager  
Donna Tracy, Executive Assistant  
Kristen Greig, Secretary to the Board/Paralegal

Chairman O'Brien called the meeting to order at 9:30 a.m. and noted that there was a quorum.

**1. APPROVAL OF MINUTES OF THE JULY 13, 2006 COMMITTEE MEETING**

Chairman O'Brien requested a motion to accept the minutes of the July 13, 2006 Policies & Procurement Committee meeting. The motion made by Vice-Chairman Martland was seconded by Director Cohn.

Chairman O'Brien noted that CRRA received the response from DEP to proceed with the first phase of construction activities at the recycling facility prior to the Board meeting as discussed at the meeting.

The minutes were approved unanimously.

**2. ADDITIONS TO THE AGENDA**

Chairman O'Brien requested a motion to add three items to the agenda. Director Cooper made a motion to add the following items to the agenda:

- a. Discussion regarding the return of surplus NOx credits to Select Energy.
- b. Discussion in Executive Session regarding pending litigation.
- c. Discussion regarding the appeal process currently set forth in the Mid-Connecticut Permitting, Disposal & Billing Procedures

Vice-Chairman Martland seconded the motion.

The motion previously made and seconded was approved unanimously.

3. **REVIEW AND RECOMMEND FOR BOARD APPROVAL RESOLUTION REGARDING RATIFICATION OF EMERGENCY PROCUREMENT CONTRACTS**

Chairman O'Brien requested a motion regarding the above-captioned item. Vice-Chairman Martland made the following motion:

**RESOLVED:** That the Authority Board of Directors ratifies the Emergency purchases as substantially presented and discussed at this meeting.

Director Cooper seconded the motion.

Mr. Gent asked the Committee to refer to the summaries included in the Board package and explained that the expense for the rotor was approved last month, but that figure did not include the charge for freight, which is one of the charges before the Committee for approval.

The motion previously made and seconded was approved unanimously.

4. **REVIEW AND RECOMMEND FOR BOARD APPROVAL RESOLUTION REGARDING NON-MEMBER WASTE DELIVERY AGREEMENT FOR MID-CONNECTICUT PROJECT**

Chairman O'Brien requested a motion regarding the above-captioned item. Director Cohn made the following motion:

**RESOLVED:** That the President is hereby authorized to enter into agreements with private waste transportation haulers for the delivery of Acceptable Municipal Solid Waste generated within the boundaries of non-member CRRA project municipalities, substantially in accordance with the terms and conditions discussed at this meeting.

Director Cooper seconded the motion.

Mr. Kirk indicated that the Authority is currently in a situation where CRRA would like to entertain the idea of accepting minor amounts of spot waste from outside of the member towns to the extent there is room. Mr. Kirk stated that there were a couple of reasons for considering this: 1) the spot waste received on a bid basis is at a very low tipping fee; 2) if CRRA could routinely accept non-member spot waste when CRRA needs the tonnage, haulers could bring in the spot waste to fill in gaps at the facility. From the haulers' standpoint, it would be easier for them to plan their routes if they were able to bring in some spot waste from non-member towns.

Mr. Gent added that some of the haulers have routes where one side of the street is a member town and the other side is not and explained that CRRA allows split loads as long as all of the deliveries are from member towns. Mr. Gent distributed a letter he received from one of the haulers requesting that CRRA accept spot waste. Mr. Gent indicated that this would allow the smaller haulers to continue to remain competitive. Vice-Chairman Martland agreed that CRRA should try to accommodate the smaller haulers. Mr. Gent stated that the contract would

require haulers to declare that they do not have a contractual obligation to deliver that waste to another facility when they enter into the contract with CRRA.

Chairman O'Brien stated that the letter Mr. Gent had handed out seemed to indicate that this particular hauler wanted to bring in waste from non-members towns on a regular basis. Mr. Gent indicated that the contract would state how much waste the hauler intends to bring in. Mr. Gent explained that spot waste is brought in very infrequently and added that there are usually only four to five weeks per year the CRRA needs waste. Mr. Gent stated that, currently, in order to get the spot waste when needed, CRRA must drop the price to \$40/ton. Mr. Gent concluded that the intent is to bring in more waste during the year to fill the gap when there is not enough waste. Mr. Gent noted that the price would be set to include diversion costs since there will be times when waste will have to be diverted at various times throughout the year. Mr. Gent indicated that this option would allow CRRA to bring waste in at \$74/ton when needed, as opposed to going to the market and bringing the waste in at \$40/ton.

Director Cooper recommended that CRRA check with the member towns before implementing this plan. Director Cooper stated that he did not want to see individual member towns paying for the disposal of other towns' waste if it is commingled.

Mr. Kirk indicated that if CRRA were going to address the competitiveness issue to allow competition, CRRA essentially would be allowing non-member waste into the system. Mr. Kirk went on to say that if CRRA is allowing non-member waste into the system, it doesn't make sense for CRRA to prohibit mixed loads (member and non-member waste), which CRRA's policy indicates now. This will allow the haulers to map more efficient routes and to improve customer service and lower prices.

Vice-Chairman Martland asked again about Director Cooper's statement regarding separation of individual town's waste. Mr. Kirk explained that CRRA deals with this issue every day and said that enforcement officers closely monitor all loads coming into CRRA facilities.

Director Cooper reiterated that it would be a good idea to let member towns know when a hauler enters into this contract so towns could be aware.

Mr. Gent stated that this proposal is not driven by revenues, but customer service. Mr. Gent indicated that towns are shifting to private haulers and the private haulers are CRRA's customers. This would provide haulers with the opportunity to make their routes more efficient.

Chairman O'Brien asked how this would affect the Windsor Landfill if CRRA diverts 5,500 tons per year. Mr. Gent indicated that Windsor would like CRRA to bring in 55,000 tons per year; CRRA is currently bringing in 40,000 tons per year and there is a minimum commitment of 25,000 tons per year. Mr. Gent stated that if CRRA were bringing in 55,000 tons per year, the landfill would close in 2008.

Chairman O'Brien stated that this issue should go to the full Board. Chairman O'Brien stated that there are two separate issues: 1) mixed waste (member/non-member), and 2) hauler privileges. Chairman O'Brien asked management to include in the Board package how much spot waste is brought in on a monthly basis compared to diversions on a monthly basis.

The motion previously made and seconded was approved unanimously.

**5. DISCUSSION REGARDING STATE AUDIT MATTER**

Chairman O'Brien requested a motion regarding the above-captioned item. Director Cooper made the following motion:

Mr. Kirk stated that the State of Connecticut auditors uncovered what they thought was a violation of the State of Connecticut Ethics Policy. Upon further review, the State of Connecticut auditors revised their report to indicate that this was a violation of CRRA's Ethics Policy, not the State of Connecticut Policy. Mr. Kirk indicated that the specific issue was use of an employee as a contractor. The Office of State Ethics advised CRRA that they could not address CRRA's internal ethics policy. Mr. Kirk stated that CRRA's Ethics Procedures direct management to contact the Office of State Ethics to resolve violations of our internal procedures. Mr. Kirk stated that management is recommending a revision to the section of CRRA's Ethics Policy that refers violations of the policy to the Office of State Ethics.

Director Cohn asked Mr. Kirk if the contract in question was still in effect. Mr. Kirk responded that the project was completed. Attorney Hunt added that CRRA used this employee's services on more than one occasion, but was not utilizing them any more.

Vice-Chairman Martland stated that he did not see any problem with hiring an employee to do work outside of their regular position. Mr. Kirk stated that CRRA's policy does allow this, but CRRA's violation was not performing a formal bid for the services.

Mr. Kirk stated that management had addressed this issue with the implementation of the new electronic procurement system, but said that a change needs to be made to CRRA's Ethics Policy.

Chairman O'Brien stated that if a violation to the Office of State Ethics Policy occurs, CRRA's existing Ethics Policy would work. Attorney Hunt agreed and said that the language only needs to be changed for violations of the CRRA Ethics Policy.

Director Cohn suggested that one of the current committees of the Board serve as an Ad-Hoc Committee, which would meet as needed.

Vice-Chairman Martland stated that he would rather deal with violations before they happen, rather than after the fact. Attorney Hunt stated that violations are not usually discovered until after they occur.

Chairman O'Brien agreed with Director Cohn's suggestion. Chairman O'Brien asked Director Cohn which committee he thought would be best to hear these issues. Director Cohn stated that it would probably depend on the violation. Chairman O'Brien suggested that perhaps the Executive Committee should initially hear the violations and then, depending on the issue, pass the violation to the appropriate committee.

Mr. Kirk requested that Attorney Hunt revise Section 8 of CRRA's Ethics Policy to reflect these changes. Attorney Hunt added that the Office of State Ethics also found one error in CRRA's Ethics Policy. In one place in CRRA's policy, the policy refers to the State of Connecticut Ethics Commission, which should be replaced by the Office of State Ethics. Attorney Hunt stated that she would make that change also.

Chairman O'Brien requested a motion to bring this matter to the full Board for approval. The motion made by Director Cooper was seconded by Vice-Chairman Martland. The motion previously made and seconded was approved unanimously.

**6. DISCUSSION REGARDING THE RETURN OF SURPLUS NO<sub>x</sub> CREDITS TO SELECT ENERGY**

Mr. Kirk explained that CRRA routinely receives NO<sub>x</sub> credits to operate the jets and said that all of the credits were not used last year. Mr. Kirk said that the contract with Select Energy clearly calls for those credits to be returned to Select Energy if they are not used. Mr. Kirk told the Committee that the concern was that, to the untrained eye, it would look odd to be transferring something of value without compensation. Mr. Kirk stated that he wanted the Committee and the Board to be aware of this so they could become familiar with the terms of the agreement.

Chairman O'Brien requested that the relevant paragraphs of the contract be included in the summary to the Board.

Attorney Hunt noted that, in addition to returning the credits, the contract requires that CRRA cooperate and take any necessary action required to accomplish the return of the credits.

Mr. Kirk asked how many credits would be transferred. Mr. Yates responded that there were eleven credits, which have a value of between \$11,000 and \$15,000.

Director Cooper asked if CRRA could carry the credits over to subsequent years in case they are ever needed. Mr. Yates responded that the credits used to be carried over, but that is no longer the case. Mr. Yates explained that, in this case, the title of the credits were actually transferred to CRRA. Mr. Yates stated that in order to return to credits to Select Energy the title will have to be transferred back to Select Energy.

Mr. Gent gave a thorough explanation of how the number of credits is estimated in the beginning of the year and how they are provided to CRRA by Select Energy. Chairman O'Brien said that it is important for the write-up to the Board to state that the credits are provided to CRRA by Select because they are receiving the benefit of the generator and CRRA is obligated by contract to return unused credits. Director Cooper noted that it should be made clear that CRRA did not pay for the credits and is not giving away something of value.

Chairman O'Brien requested a motion regarding the above-captioned item. Director Cooper made the following motion:

**RESOLVED:** That the Committee recommends that the Board of Directors, in acknowledgement of CRRA's contractual obligation under Section 5.11 of the Power Purchase and Sales Agreement, as amended, to return unused NOx credits to Select Energy, authorize the President to execute documentation required to accomplish said return.

Director Cohn seconded the motion.

The motion previously made and seconded was approved unanimously.

## **7. DISCUSSION REGARDING EXTENSION OF SOLID WASTE AGREEMENTS**

Mr. Kirk stated that this item refers to two contracts that are out of sync with the other three-year contracts and management would like to get them on the same renewal schedule as the others. Mr. Kirk explained that both vendors are in the process of working on projects that will extend beyond their current three-year contracts. Mr. Kirk said that CRRA's General Counsel, Attorney Peter Boucher, investigated whether or not outstanding work allows CRRA to use these vendors past the term of their three-year agreement. Attorney Boucher informed CRRA that this was not allowed. Mr. Kirk explained that management would like these vendors to finish the projects they are currently working on and in order to do so, the contracts need to be extended.

Mr. Gent stated that the vendors in question are ARI and GBB. Mr. Gent explained that GBB is currently working on siting of a new landfill, strategic planning and development of an RFP for the Stratford Recycling Facility. Mr. Gent added that ARI is working with CRRA in support of the future option work for the Wallingford Project.

Attorney Hunt added that Halloran & Sage was quite clear that CRRA cannot extend the existing contracts for any purpose. Attorney Hunt stated that CRRA would have to create new contracts for the amount of time needed to complete those specific tasks only.

Chairman O'Brien asked when the vendors would be finished with those tasks. Mr. Kirk stated that the tasks that the vendors are working on would probably go beyond an additional three years. Mr. Kirk added that management is asking for a 6-month extension of each contract, which allows the vendors to continue with their projects and bring these two agreements in sync with the other agreements.

Attorney Hunt stated that when the contracts for these specific items are bid out again, there would be an exemption for these vendors under the "special capability or unique experience" category.

Chairman O'Brien asked Mr. Gent how much longer ARI would be working on this task and the expected cost remaining. Mr. Gent stated that he is scheduled to meet with the Wallingford project towns in the next month and upon conclusion of these meetings, Mr. Gent will have a better idea of the time needed to complete this task.

Chairman O'Brien asked Mr. Kirk to review the tasks assigned, how much more time they will need to complete the tasks they are working on now and expected cost remaining.

**8. DISCUSSION REGARDING THE APPEAL PROCESS CURRENTLY SET FORTH IN THE MID-CONNECTICUT PERMITTING, DISPOSAL & BILLING PROCEDURES**

Mr. Kirk informed the Committee that the procedure calls for an appeal process of fines levied against haulers who do not follow the procedure. Mr. Kirk said that the procedure does not have any flexibility for extenuating circumstances where CRRA feels that the punishment is not appropriate. Mr. Kirk stated that sometimes there are situations that call for exceptions when it is in the best interests of the haulers or the towns. Mr. Kirk said he would like to discuss the possibility of amending the procedure to allow management or the appeal committee to excuse, reduce or have more flexibility in assessing fines and to work in the best interest of the Authority.

Mr. Kirk noted that this is an issue because one of CRRA's largest and most responsive haulers was fined, and because of the nature of this particular situation, Mr. Kirk said that he feels this fine should be excused. Mr. Gent explained that the procedure only allows the hauler to go before the appeals panel if there is information that contradicts the violation charge. Even if there are extenuating circumstances, haulers cannot appeal without such contradicting information.

Recognizing that changes to the procedure will require public notice, Mr. Kirk asked if the situation with this particular hauler requires any action in the meantime to prevent this hauler from being locked out. Mr. Gent stated that the hauler would appreciate some action, considering the way the situation was handled.

After a lengthy discussion regarding whether an extension or a waiver would be more appropriate, Chairman O'Brien requested a motion to recommend that the Board grant a waiver of the procedure in this one instance and to grant discretion to the President with regard to enforcement to resolve the matter in the best interests of the Authority. The motion was made by Director Cooper and seconded by Director Cohn. The motion previously made and seconded was approved. Director Cooper voted nay.

**9. UPDATE ON STATE CONTRACTING STANDARDS BOARD**

Director Cohn informed the Committee that he had been asked by CRRA management to appear on behalf of CRRA before the State Contracting Standards Board, which has been asked by the Governor to develop new procurement requirements for the State. Director Cohn stated that he reviewed CRRA's procurement policies with the Standards Board. In a discussion with the Chairman of the Standards Board, she indicated that the Standards Board had intended to have the procedures apply to quasi-public agencies as well as state agencies, although she was not certain that would be the case. Director Cohn indicated that his report was very well received and that he left copies of CRRA's Procurement Policy with the Board.

Mr. Kirk thanked Director Cohn for his time and attention to this matter.

**10. EXECUTIVE SESSION**

Chairman O'Brien requested a motion to enter into Executive Session to discuss real estate acquisition and pending litigation with appropriate staff. The motion made by Vice-Chairman Martland and seconded by Director Cooper was approved unanimously. Chairman O'Brien requested that the following people remain for the Executive Session, in addition to the Committee members:

Mr. Kirk  
Mr. Gent (Present until 11:45 a.m.)  
Attorney Hunt  
Mr. Tracey (Present until 11:45 a.m.)

The Executive Session commenced at 11:15 a.m. and concluded at 12:15 p.m.  
Chairman O'Brien noted that no votes were taken.

**11. ADJOURNMENT**

With no other business to discuss, Chairman O'Brien requested a motion to adjourn the meeting. The motion made by Director Cooper and seconded by Vice-Chairman Martland was passed unanimously.

The meeting was adjourned at 12:15 p.m.

Respectfully submitted,

Kristen B. Greig  
Secretary to the Board/Paralegal