

**Policies & Procurement Committee
Oct. 15, 2009, Meeting**

Draft Minutes

Members Present: Raymond O'Brien, Committee Chairman
Theodore Martland, Vice-Chairman
Dave Damer

CRRA Staff Present: Tom Kirk, President
Peter Egan, Director of Environmental Affairs
Tom Gaffey, Director of Recycling and Enforcement
Laurie Hunt, Director of Legal Services
Trevor Nichols, Senior Operations Analyst
Mike Tracey, Director of Operations
Steven Yates, Air Compliance Manager
Moira Kenney, Secretary to the Board/Paralegal

Members of the Public: Phil Armetta of Dainty Rubbish (present only for public comment); John Pizzimenti of USA Hauling; Jim Sandler of Sandler & Mara

Chairman O'Brien called the meeting to order at 9:35 a.m. and noted that a quorum was present.

Chairman O'Brien requested that everyone stand for the Pledge of Allegiance whereupon the Pledge was recited. Noting that there were no members of the public present who wished to comment, Chairman O'Brien stated that the regular meeting would commence.

1. **APPROVAL OF MINUTES OF THE SEPT. 10, 2009, POLICIES & PROCUREMENT COMMITTEE MEETING**

Chairman O'Brien requested a motion to accept the minutes of the Sept. 10, 2009, Policies & Procurement Committee meeting. The motion to approve the minutes was made by Vice-Chairman Martland and seconded by Director Damer.

Chairman O'Brien said that on page 14 the "Further Resolved" on the top of the page is a mistake and will be taken out.

Director Damer made several minor corrections concerning grammar and phrasing.

The minutes were approved as amended and discussed unanimously by roll call.

2. **REVIEW AND RECOMMEND FOR BOARD APPROVAL RESOLUTION REGARDING A TRUST AGREEMENT ASSOCIATED WITH SOUTH MEADOWS SITE REMEDIATION ACTIVITIES**

Chairman O'Brien requested a motion on the above-referenced item. Director Damer made the motion, which was seconded by Vice-Chairman Martland.

RESOLVED: That the President of CRRA is authorized to execute a Trust Agreement with New York Community Bank, substantially as presented and discussed at this meeting.

Mr. Egan said that this resolution concerns the ongoing remediation at the South Meadows facility. He said an area of PCB contamination had to be remediated. Mr. Egan said that most of the area was remediated by TRC in accordance with the originally intended plan to remove the soil and ship it off site.

Mr. Egan said that TRC determined that the delineation of the PCB contaminated soil changed after sampling was undertaken. He said it was determined to go under the Power Block Facility a short distance. Mr. Egan said the PCB remediation regulations contain a provision to leave contamination in place and install an engineered control. He explained that TRC is allowed to do this under CRRA's exit strategy contract. Mr. Egan said that management did not object to installing an engineered control as the cost of removing the soil would have been extremely expensive as well as cause structural complications and concerns to the power block facility.

Mr. Egan said that a small area of the soil was left in place and an engineered control was approved by The United States Environmental Protection Agency (hereinafter referred to as "EPA") and was installed. He said because the engineered control will stay in place the EPA requires that financial insurance is in place to guarantee the maintenance of this control is assured. Mr. Egan said that the control is essentially a concrete pad with one ground water monitoring well monitored by TRC in association with this remediation activity.

Mr. Egan said that the cost of the engineered control for a thirty year period is about \$96,000. He said that financial insurance needs to be put into place. Mr. Egan said that because CRRA is the property owner the EPA requires that CRRA be the grantor on this or trust agreement. He said because the contract exceeds a five year duration it requires Board approval. Mr. Egan said that this will not cost CRRA any money and all of the costs are TRC's under the exit strategy contract. He said that TRC intends to fund the \$96,000 over seven years at \$14,000 a year.

Mr. Egan said that funding time frame will occur before the first fifteen year term of the AIG policy which will protect CRRA. He said it will be fully funded before the insurance policy terminates. Mr. Egan said pending Board approval this resolution will be executed and TRC will fund the trust fund. He said that a memorandum of understanding has been developed to memorialize that the cost obligations are TRC's under the exit strategy contract.

Vice-Chairman Martland asked if that language would be found in the trust agreement. Mr. Egan said that the trust agreement contains language that is prescribed by the EPA and Federal regulations. He explained that language can't be changed.

Director Damer asked what happens if TRC stops functioning for whatever reason during the thirty years it is supposed to be monitoring. Mr. Egan explained that in the event that there was no party in place to do the monitoring and maintenance EPA is the beneficiary on the trust agreement and they could call the funds to pay someone to do this activity. He said that if AIG or TRC went out of business the funds would be there. He said if TRC went out of business and AIG was not there to back them up and if CRRA still owns the South Meadows site there are two options: first that EPA could gradually release some of the funds each year, or CRRA could find the funds elsewhere. At the end of

the thirty year term the funds under the memorandum of understanding will go to the party which is responsible for maintenance and monitoring activities.

Mr. Egan said that if AIG and TRC are no longer there CRRA will either get access to those funds at the end of the thirty years or whoever is responsible will get the funds.

Chairman O'Brien said that typically when resolutions such as these come to the Board and there is an amount requested for post-closure maintenance the amount is established using the net present values expected by management. He asked that a page be included for the benefit of the Board to show that seven year payment schedule is in no way compromising what CRRA is expecting.

Mr. Egan said that he could certainly provide that information. He explained that the governing law on financial assurance mechanisms requires only the cost in current dollars in a fund. He said an interest date, inflation and/or interest rate does not have to be assumed. Chairman O'Brien said that the problem is that CRRA has the ultimate responsibility and as a Board member he would like to be sure that enough money is placed in the fund according to a best estimate for whoever is responsible, as it may be CRRA. He asked that this be illustrated for the public and in the interest of transparency.

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

3. **UPDATE ON STATUS OF A CONSENT ORDER BETWEEN THE CT DEP AND CRRA REGARDING THE WALLINGFORD RESOURCE RECOVERY FACILITY**

Mr. Egan said this discussion item is in regards to the Wallingford Resource Recovery Facility. He explained Covanta had been issued a consent order for violations from the Wallingford Projects which primarily addressed an exceedence of dioxin emissions from one of the boilers in 2007.

Mr. Egan said that Covanta is responsible for any monetary penalties associated with the consent order. He said that it was issued in February and after Covanta took the lead in negotiations the penalty was agreed on at about \$355,700. Mr. Egan said that during the last few months Covanta and the Connecticut Department of Environmental Protection (hereinafter referred to as the "CT DEP") held discussions concerning whether the funds would be paid to a supplemental environmental fund (hereinafter referred to as "SEP") or the CT General Fund. He said that Covanta and the CT DEP have agreed that Covanta will pay the penalty into the CT DEP SEP. Mr. Egan said that both Covanta and CRRA are signatories on the consent order because both are on the air permit that was issued. He said the consent order is essentially completed and will be signed in the next few weeks.

Vice-Chairman Martland asked if Covanta is paying the full penalty. Mr. Egan said this is correct.

Chairman O'Brien asked if Covanta is also accepting responsibility for the violations. Mr. Egan replied yes. He said that Covanta is contractually responsible for operating the facility compliantly, which they did not do, and they are responsible for any costs associated with that. Chairman O'Brien clarified he meant is Covanta acknowledging responsibility in the consent order. Mr. Egan said that he would find out. Chairman O'Brien said that it was important that Covanta acknowledge its responsibility either in the consent order or via a letter to the Board.

Director Damer asked if the money is going to any specific SEP. Mr. Egan said that management had met with CT DEP several times including one direct meeting with Commissioner Marella to request that the SEP funds be used to fund the Stratford Garbage museum. He explained that the CT DEP did not agree to the request on the grounds that one of the necessary criteria required for SEP qualification was not met by CRRA's suggestion. Mr. Kirk said that was disappointing.

4. **UPDATE ON STATUS OF A CONSENT ORDER BETWEEN THE CT DEP AND CRRA REGARDING THE MID-CONNECTICUT RESOURCE RECOVERY FACILITY**

Mr. Egan said that this discussion item concerned a consent order solely to CRRA (as the sole permit holder) for the Mid-CT facility for two exceedences of air emission standards. He explained one was for a particulate exceedence during the annual stack testing in 2007, and the second was for an ammonia exceedence during the stack testing in 2008.

Mr. Egan said that Covanta is responsible for operating the facility compliantly and have accepted responsibility and will pay the monetary penalty. He said in this case the penalty was negotiated to about \$66,000. Mr. Egan said that the CT DEP is strongly urging CRRA to install an ammonia continuous emission monitor on one of the three boilers instead of paying the fine. He said management believes that the particular unit and technology they have proposed will meet CT DEP specifications pending a better understanding of the cost and installation as well as associated operation and maintenance costs. Mr. Egan said that the CT DEP wants to better monitor the ammonia on a continuous basis, a direction that Mr. Egan feels the CT DEP is moving in for all of the waste to energy facilities in the State.

Mr. Egan said that after a meeting with the CT DEP CRRA management feels that CT DEP is in favor of the unit and technology of the monitor CRRA has picked out. He said that discussion with Covanta concerning the reoccurring operations, maintenance, monitoring and maintenance on this unit must still take place. Mr. Egan said that the purchase and installation of the monitor is about equal to the costs of the penalty. He said that there will be costs going forward associated with calibrating the unit; however it is management's position that Covanta should be responsible for these costs. Mr. Egan said those discussions with Covanta will take place soon.

Director Damer asked if there is any chance that the SEP funds from the Wallingford Project can be used for the operation and maintenance of the monitor. Mr. Egan said this was not an option. Director Damer said that he would think that the CT DEP would be agreeable to this considering the CT DEP may be using CRRA as a trial for a broader application within all of the waste to energy facilities. He said he thought they would be more flexible and allow a penalty from another facility as funding.

Mr. Egan said that he will ask that precise question although he does not feel that the CT DEP will be susceptible to that suggestion.

5. **PUBLIC COMMENT**

Chairman O'Brien recognized Mr. Armetta (formerly of Dainty Rubbish) who arrived after public comment, and offered him the opportunity to address the Committee. A direct transcription of his comments follows:

Mr. Armetta distributed a handout, a copy of which is attached as “Exhibit A”.

Mr. Armetta: Do you want to pass these out? I only made eight copies, I was not expecting this many people here today. I just want to bring your attention to the last page of the two page flyer here. The heading here is “*A Ship A State*” are you all familiar with that? Mr. Darcy’s blog or whatever you want to call it. I’m here today to try and find out when is it going to stop? Historically my experience with doing development work here in CT... I noticed an article a few weeks ago, of Connecticut last in project development and I would lay some of that blame to an entity, not necessarily the people here, but an entity which is CRRA that I’ve had to deal with over the last ten years and it just doesn’t stop. Just to give you an overview when I applied for my Bristol Project to develop that, CRRA went to the Economic Development Committee and told them, “We don’t need his plant, don’t support Mr. Armetta with any economic development”. We got word from the Economic Development Committee that they were approached and that’s what they were told. When it came to Lisbon we were permitting that, we went to the CT DEP to get a permit, CRRA intervened and we were denied the permit in the first year. My attorneys found fourteen errors in the hearing officers opinion, and they told us get back in the line and we could reapply, well the second year we reapplied and got our permit, CRRA then went to the legislature to put a ban on any new waste to energy projects and we had to beat them there at the legislature, we were successful there. They then went to, through the court system and sued us in court to stop the project.

Chairman O’Brien: Pardon me; this all predates the current Board.

Mr. Armetta: It pre-dates, I’m not blaming you, I want you to know a background here, that’s all I’m saying.

Chairman O’Brien: We are granting you the courtesy of speaking after public participation will you get to the point of today?

Mr. Armetta: I’m getting there today; I’ll get to it today. I’ve got twenty years of my life here.

Chairman O’Brien: Yeah okay.

Vice-Chairman Martland: Yeah but we don’t want to hear it for 20 years

Mr. Armetta: I don’t want 20 years, give me the courtesy of five minutes, I’ve been speaking for two minutes I know you may not like what you’re hearing.

Vice-Chairman Martland: That isn’t it, it isn’t applicable. Let’s get to the point.

Mr. Armetta: The point is Dainty Rubbish is being used by CRRA. The reason we’re being sued is because we did not bring garbage to the plant, okay. If you read the last page here Mr. Darcy points out that your taking in 30,000 tons of garbage which you then have to export because you don’t have the ability to process it. So by us not bringing garbage to the plant, and by the way the reason we don’t bring garbage to the plant is because every time my trucks went to the plant they were put to the side, “we have to inspect the loads”, and they would hold them up for an hour or two, and I tolerated that. What I couldn’t tolerate and what I didn’t tolerate was that when my trucks were leaving the building they closed the doors on the building and then CRRA, the foreman talked to the driver and said that,

“Oops sorry it was our fault”. CRRA then arbitrarily took 17 or 27 hundred; I forgot the number, out of my account to fix the door. Now that should have been, first of all the foreman admitted it was their fault, secondly it should have been an insurance situation, but they arbitrarily just took that money out without my permission and applied it to fixing the door. I then decided to get away from this and took my garbage to Preston, CT, which is one of your projects, where we at least were treated like customers and not like an enemy. So the point is you can’t, you weren’t processing 30,000 tons of garbage that you couldn’t process, you were exporting now you turn around and sue Dainty Rubbish because you claim that you lost revenue because we weren’t bringing garbage there when in fact we saved you money by us not bringing the garbage there you didn’t have to export it at \$90 dollars, your taking it in at \$60 and your exporting it at \$90. I’ll cut it short do you get the message guys? When is it going to stop, do I have to go the media? Have you heard anything about the ransom money? You charge us \$6 million on my Lisbon project in order for you guys to go away, we sat down and had to negotiate a deal, we paid \$6 million in ransom money. I know you don’t like to hear this, but this is historically, you may not be aware of it, but I want to make everyone in this room aware of what a developer has to go through. And then you read in the newspaper Connecticut last in project and job development. I’ve had to put up with this, okay. And now your “hey guy, Phil, hurry up get out of here we don’t want to hear it”, but this is what’s going on guys. Now I want that lawsuit stopped, if its not stopped by next week, I’m going to the Media and I’ve got the resources now. I created 740 jobs in Middletown on my project.

Chairman O’Brien: Mr. Armetta we do not respond to threats.

Mr. Armetta: You don’t want to hear about it, I’ll stop, no, no it’s not a threat.

Chairman O’Brien: It sounded like a threat to me sir, and you’re finished, you’re finished.

Mr. Armetta: It’s a fact, I’m telling you what’s going to happen if you don’t stop.

Mr. Armetta: Okay, yes.

Chairman O’Brien: Moira I would ask that you include this and a summary of his comments and my response in the Board package for two weeks from today. That will save him from having to go back to do this because all of the information will be prepared.

Mr. Armetta: I won’t come back again, I will not talk to this Board again. I will take appropriate action to stop all of this. Enough is enough; you guys have made me go through all kinds of hoops here, okay? And I’m not saying you guys, I’m sorry I keep saying you guys most of you guys weren’t, most of you were not here and not responsible, but you are responsible for the lawsuit and I’m saying I want to settle that and get rid of it okay? And if we don’t then I have to see what other options I have. And I thank you for your time, even though it was brief I wish you all well. Anybody have any questions?

Chairman O’Brien: Can we move on to the next item?

Mr. Armetta: Fine, and that’s the attitude that a very coop...I’m a taxpayer here, you guys are spending my money when you hire lawyers. You may not like to hear this but instead of spending money, you’ve got thirteen law firms here, your spending money on suing people instead of taking care of business. And it’s my money and you should have dropped the tip fees by not spending all this

money on lawyers. Thirteen law firms and one garbage guy right here's the garbage guy, the rest are lawyers, politicians or whatever you are, and you're doing a lousy job. Stop it.

Chairman O'Brien said that he does not like threats from anyone and he doesn't respond to them.

6. **REVIEW AND RECOMMEND FOR APPROVAL RESOLUTION REGARDING A MODIFICATION TO THE MID-CONNECTICUT REGIONAL RECYCLING FACILITY TO ENABLE THE PROCESSING OF #3 THROUGH #7 PLASTICS CONTAINERS**

Chairman O'Brien requested a motion on the above-referenced item. Vice-Chairman Martland made the motion, which was seconded by Director Damer.

WHEREAS: CRRA has encouraged its member municipalities to recycle to the maximum extent possible and;

WHEREAS: CRRA has invested in the installation of state-of-the-art, single stream, processing technology at the Mid-Connecticut Regional Recycling Facility to increase citizen participation and recycling rates in pursuit of accomplishing the new statewide recycling goal and;

WHEREAS: Citizens and officials from member municipalities have requested that CRRA add #3 through #7 plastic containers as acceptable items to be processed at the Mid-Connecticut facility and;

WHEREAS: CRRA's contracted vendor, FCR, LLC, has recently proposed adding the requisite equipment to sort and process #3 through #7 plastic containers therefore;

RESOLVED: That the Board of Directors hereby approves the expenditure of funds to modify the facility to enable the recycling of #3 thorough #7 plastic containers and the President is hereby authorized to enter into the Fifth Amendment to the Agreement For Design, Upgrade, Retrofit, And Operation/Maintenance Services For The Mid-Connecticut Regional Recycling Facility with FCR, LLC substantially as presented at this meeting.

Mr. Kirk said that through cooperation with its contractor FCR, CRRA has found a way to accept and recycle plastics four through seven and will collect plastics three through seven. He said there is still no market for three. Mr. Gaffey explained three contains PCV's and chlorides.

Vice-Chairman Martland said that it is very confusing determining which plastics can be recycled. Mr. Kirk said that any plastics numbered one through three can be placed in the bin starting in January. Mr. Kirk said the capital project being embarked on is very minor and will make changes that allow separation of these plastics and more importantly optimize baling. He said four through seven will be baled together and sold as a mixed plastic which although not a great revenue source, will pay for itself halfway through the middle of the third year. Mr. Kirk said because of the importance in creating interest and encouraging better participation in the single stream program and recycling as a whole management is in support of this resolution.

Mr. Gaffey said that a number of requests are received from the public in general to recycle the other plastics. He explained the prior fall it was a very difficult to market these plastic as they were sent to China which basically shut down. Mr. Gaffey said that this year FCR has located domestic markets, which CRRA likes to rely on. He said that CRRA does not rely on foreign markets. Mr. Kirk said although this is true CRRA is not immune from the effects of foreign markets which tend to drive commodity pricing. He said as far as availability for a taker CRRA relies on domestic markets although it may not always be at a financial advantage.

The Committee discussed the difficulty in discerning which plastics are recyclable given the confusing and conflicting symbols placed on many items.

Director Damer said that he was happy to see this item come to the Committee. He asked that it be made clear that this resolution is for Mid-Conn only and added that he would like to see this become a state wide initiative, something that would be made easier by more single stream conversion. Mr. Gaffey said the Southwest towns want to move forward with single stream as soon as possible, a topic which will be discussed at their December meeting. He said the retrofit will cost approximately \$6-6.5 million, the key part being financing. He said the key part of the financing will be how much of a rebate is received from FCR for each ton delivered in addition to the 50/50 revenue sharing and the economics of that which will come back into the project.

Vice-Chairman Martland said if that is the case and more plastics are accepted more Mid-Conn towns will be needed to keep the project going. Mr. Kirk said that to the extent garbage moves out of the waste stream to the recycling stream that is correct; however there is plenty of garbage in Connecticut. Director Damer said this will be instrumental in helping the recycling goals of the Solid Waste Management Plan. Chairman O'Brien agreed and thanked Mr. Gaffey and his team for development of this resolution.

Director Damer asked if the Southwest Towns would go straight to accepting plastics #1-7. Mr. Gaffey said that was correct and a single stream retrofit as well as dual stream capabilities would be utilized.

Chairman O'Brien asked that the status of the facility modification fund when this comes out (along with any other items which were taken out) be provided.

The motion previously made and seconded was approved unanimously by roll call

7. MOTION TO ADD TWO ITEMS TO THE AGENDA

Chairman O'Brien requested a motion to add two items to the agenda concerning legal expenses and soil delivery payments not received.

The motion to add two items to the agenda was made by Director Damer and seconded by Vice-Chairman Martland.

The motion to add two items to the agenda was approved unanimously by roll call.

8. SOIL DELIVERY PAYMENTS NOT RECEIVED

Chairman O'Brien said that a vendor has been delivering needed soils to the Hartford landfill closure. He explained it has not made payments on what CRRA is owed because the Connecticut Department of Transportation (hereinafter referred to as the "CT DOT") has not paid the company. He explained there is a guarantee of payment bond which is solid. Chairman O'Brien said if the company does not pay CRRA can claim the bond.

Chairman O'Brien said that the question is whether or not CRRA continues with a technical violation, or as he prefers, have the Board approve an exception using an appropriate resolution in this case for the reasons stated. He said the regulations are the Board's and therefore an exception can be approved if so decided.

Director Marlton said that he would like to see verification that in fact the CT DEP did not pay the company, and in fact if they did not pay the company CRRA should wait until the company is in fact paid. Mr. Kirk said that verification was received from the CT DOT directly and in fact there are calls into the CT DOT now to try and find out when they expect to pay. He said it may be resolved now that they have dealt with some end of the year and budget issues.

The Committee agreed to recommend that the Board make an exception for this case rather than requesting management execute the contract as written.

8. EXECUTIVE SESSION

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

Tom Kirk
Laurie Hunt, Esq.

The Executive Session commenced at 11:08 a.m. and concluded at 11:27 a.m. Chairman O'Brien noted that no votes were taken.

The meeting was reconvened at 11:27 a.m., the door was opened, and the Board secretary and all members of the public were invited back in for the continuation of public session.

ADJOURNMENT

Chairman O'Brien requested a motion to adjourn the meeting. The motion made by Vice-Chairman Martland and seconded by Director Damer was approved unanimously by roll call.

The meeting was adjourned at 11:25 a.m.

Respectfully submitted,

Moira Kenney
Secretary to the Board/Paralegal

