

NOVEMBER 18, 2010
REGULAR MEETING OF THE
BOARD OF DIRECTORS OF THE
NEW HAVEN SOLID WASTE AND RECYCLING AUTHORITY

A Regular Meeting of the New Haven Solid Waste and Recycling Authority (the "Authority") was held on November 18, 2010, at 6:30 P.M. at New Haven City Hall, 165 Church Street, 2nd Floor, Meeting Room #1, New Haven, Connecticut 06510.

Chairman Dolan called the meeting to order at 6:42 p.m.

Directors present: Ambrogio, Antunes, Dolan, Lemar (until 7:05 p.m.)

Also present: Jackie Bishop, Secretary of the Authority
John Prokop, Director of the Department of Public Works of the
City of New Haven & Executive Director of the Authority
Nimesh Patel, Counsel to the Authority

1. Approval of the minutes of the October 21, 2010 Regular Meeting of the Board

RESOLVED: A motion was made by Pat Ambrogio to approve the minutes of the October 21, 2010 Regular meeting of the Board.

Anika Lemar seconded the motion.

Voice Vote: Unanimous

<u>AYES</u>	<u>NAYES</u>	<u>ABSTENTIONS</u>
Ambrogio		
Antunes		
Dolan		
Lemar		

2. Discussion and approval of Schedule of Monthly Regular Meeting for the calendar year 2011.

RESOLVED: A motion was made by Pat Ambrogio to table this item until the January Meeting.

Gerald Antunes seconded the motion.

Voice Vote: Unanimous

<u>AYES</u>	<u>NAYES</u>	<u>ABSTENTIONS</u>
Ambrogio		
Antunes		
Dolan		
Lemar		

3. Discussion on Fee Schedule.

No action was taken due to a lack of quorum.

4. Discussion on action to collect flow control violation fines.

No action was taken due to a lack of quorum.

5. Executive Session to discuss pending claims against waste flow control violators.

No action taken due to a lack of quorum.

6. Other Business.

No action taken due to a lack of quorum.

7. Public Comments.

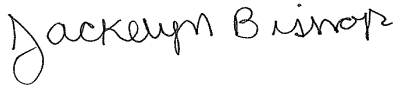
Comments from Edward Spinella: I don't know if all of you know me, I'm Edward Spinella, I represent All American. I've been representing trash industry for 30 years. I don't mean to lecture you at all, but I've been attending several of these meetings and I appreciate John's efforts to reduce the tip fees. I think that is something that you have to seriously consider. No one so far has ever talked about the customers. The customers are the ones that are bearing these costs. Just to give you some background (even though John has given you some background) \$65.00 at Bridgeport, \$65.00 in Wallingford and CWPM is bringing your garbage to Hartford for \$53.00 per ton. The maximum it costs him to bring it to Hartford is \$10.00 per ton, yet you are charging \$87.50. Extremely high for the customers to bear in this economy, and that is why you are seeing a certain amount of loss of tonnage. You also have to keep in mind a few things that I'm sure Nimesh will tell you the same thing I'm telling you, the Statutes do not permit you to charge whatever you want. The Statutes specifically require you to charge reasonable fees. The Statutes do not allow you to charge whatever you think is appropriate to make a profit. John has mentioned in the past that it is \$9.50 a ton that you are making a profit. The Statutes require you to pay back to the customers any surplus. You can't sit on a surplus. Every year that you have a surplus, after you put a certain amount of money into reserves, things of that sort, you are required by law to give that surplus back to the customer. The haulers, because they are the ones that are paying this. Additionally, there are two very important US Supreme Court cases that I'm sure that you have heard about before. There is the Carbone case and also, the Oneida Herkimer case. In both of those cases, the Supreme Court of United States made it absolutely clear that a Transfer Station cannot be used to create revenue. It is there for the public, for the public's benefit. It's not there to be a money making operation, and I think that you have to have that in mind when you are considering what is an appropriate tip fee. An appropriate tip fee according the Connecticut Statute is a reasonable fee. The court would probably interpret that as a net cost of operations, the same thing that CRRA follows; which is that CRRA is not permitted to make a profit. It's not permitted to do anything other than to break even each year. It's not a profit making operation. At the end of each year, if the CRRA has a surplus, after it makes account for certain reserves of putting money aside and that has to be appropriate enough for its reserves. That money has to be passed on to the customers. You are going to see in Wallingford, within the next couple months, \$16 million dollars is going to be returned to the customers because they overcharged the customer \$16 million dollars in the last, in the recent past. Last year Wallingford passed out to the customer \$26 million dollars. What that means in simple terms is that Wallingford was charging an exorbitant tip fee and because of that tip fee they have these

reserves, these surpluses, not reserves, and these surpluses have to be passed back to the customers. After 30 years of doing this work, its pretty easy for me to tell you something that I think you once said too, a couple meetings ago, you make it on volume; one of the expenses you haven't discussed at all is the time and effort to try to enforce flow control, time and effort to make sure that the waste is coming into your Transfer Station. Additionally, I think I've seen consultant fees in the past of \$60,000 or whatever, but significant numbers I think I've heard at these meetings. You will have no flow control to speak of if your tip fees are set appropriately. You will be inundated with the MSW from New Haven if your tip fees are appropriate. Its common sense that, we could bring this garbage right now to Wallingford for \$65.00. We could bring it to Bridgeport for \$65.00. People throw around these high numbers of how much it is for the transportation and things of that sense. It's not as high as you think it is. Its somewhere in the area of about \$8.00 to \$9.00 per ton for us to bring MSW to Wallingford or to Bridgeport. So, if you add \$65.00 to \$8.00, you can see that is \$73.00. There is a heck of a lot of incentive for haulers to come to you if the tip fees are appropriate. You have to keep in mind that at the end of the day, particularly in this environment, this economy, this \$87.50 is falling on the mom's and pop's, its falling on the, certainly there are big businesses, but its falling on a lot of people, \$87.50 is a lot of money. Now John is right, at \$84.00 per ton, if you reduce it to whatever it may be, \$83.50 or whatever it is, you'll see some increase, but if you reduce it even substantially more, and John will be able to work on those numbers, he'll be able to tell you that you're going to have far more than 8% coming in, if you reduce the tip fees even more. I understand that you say you are going to have some reduced revenues, but you have to also try to make your projections as far as how much additional waste will come in if you reduce the tip fees appropriately. \$87.50 is extremely high when you consider a \$65.00 in other areas and it's only going to cost \$8.00 to \$9.00 a ton for All American and all the others to go to other facilities. I appreciate that you are trying to do the right thing, but you also have to keep in mind that by Statute you are only permitted to charge a reasonable fee. The Connecticut Legislature never came up with the idea of creating Authorities, such as the New Haven Authority so that it could be a big profit making operation. The Authority is there for the people to have a benefit. It's a public benefit. It's not supposed to be a profit making operation and I understand that when we talk about profit, \$9.50 a ton as John has projected as a profit at \$87.50. I suspect at \$84.00 or \$83.00 a ton, you are going to make a profit. What I'm telling you is that you are opening yourselves up (and Nimesh may support this, perhaps not) but I think he will, that you're opening yourself up to somewhere along the line, either the customers are going to bring a class action against you, potentially, or the haulers, or some haulers are going to, saying that the tip fee that is being charged is an inappropriately high tip fee, that you are not permitted by Statute to be a profit making operation and that your tip fee is only enough to support yourself, and at that point in time, any surplus is to be disbursed back to the haulers who are your customers. So I think its important to keep in mind, not only what you've been talking about here today, but also you need to keep in mind what the US Supreme Court has said, that these are not revenue making operations, profit making operations, that's not the intent of what the Supreme Court said. Also the Connecticut State Legislature has made it absolutely clear, that you are required to charge (as John said today) uniform tip fees. The reason for that is so that everyone is treated the same. You can't give, for example, New Haven residential a reduced tip fee and then charge, or put that on the backs of the commercial customers and charge them a higher tip fee. The whole reason for that is you are there for the public benefit; you are not here to be a profit making operation. So I think you are on thin ice when you start talking about profits and how much you're making per ton. I absolutely agree that you have to have some appropriate amount of money set aside in reserves, but I'm just saying be careful. It's not a threat, I'm just saying be careful, I'm stating the law, understand the Statutes, understand what the United States Supreme Court has said. Keep in mind, and you can learn this from CRRRA, which has been in business since the early 70's, if you drop the tip fee down to where its market,

you will have so much MSW in your facility, you will be turning it away. The reason why you are not in that situation right now is because your tip fee is way, way too high.

The meeting was adjourned at 8:00 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jackelyn Bishop". The signature is written in black ink and is positioned above the typed name.

Jackelyn Bishop
Authority Secretary