

MAY 13, 2009
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 May 13, 2009, 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 6:35 p.m.

Directors present: Dolan, Antunes, Ciarlone, Walker, and Drakonakis
(note: Konstantine Drakonakis left the meeting at 7:35 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. Procedures to adopt or amend Regulations.

RESOLVED: A motion was made by Joe Dolan to approve the draft procedures to adopt or amend regulations as presented in the form attached hereto as Exhibit A.

Don Walker seconded the motion.

Voice Vote: Unanimous.

AYES

Antunes

Ciarlone

Dolan

Drakonakis

Walker

NAYES

ABSTENTIONS

2. Approval of Draft Regulations

RESOLVED: A motion was made by Don Walker to approve the draft Regulations as presented in the form attached hereto as Exhibit B, which includes the following change:

Section 5 – Appeals Process

Section (b)

“Following the receipt of a notice of appeal pursuant to Section 5.01(a) of these Regulations, the Executive Director shall (i) set a time, date and location for a hearing, which shall be no later than thirty calendar days following the Executive Director’s receipt of such notice of appeal, and (ii) provide the aggrieved Person with written notice at least ten calendar days in advance of such

hearing. The hearing shall be conducted by a panel consisting of the Executive Director and ~~one member~~ two members of the Board of Directors. The panel shall hear the aggrieved Person's appeal and render a determination. The aggrieved Person and the Authority shall have the opportunity to be represented by counsel at such hearing”

Tony Ciarlone seconded the motion.

Voice Vote: Unanimous.

AYES

Antunes
Ciarlone
Dolan
Drakonakis
Walker

NAYES

ABSTENTIONS

3. Schedule of Fees and Fines.

RESOLVED: A motion was made by Tony Ciarlone to approve the schedule of fees and fines as follows:

In accordance with the Regulations adopted by the New Haven Solid Waste and Recycling Authority (the “Authority”) on May 13, 2009 (the “Regulations”), all users of the Transfer Station are hereby notified of the following schedule of fees and fines. All capitalized terms used herein but not otherwise defined shall have the meanings set forth in Section 1 of the Regulations. Copies of the Regulations are available for public inspection at the Authority’s principal office located at 34 Middletown Avenue, New Haven, Connecticut 06513.

1. Transfer Station License - Annual Fee: \$350.00

2. Vehicle Permit - Annual Fees:

Each truck	\$16.00
<i>plus</i>	
Tare weight of 5,000 lbs. or less	\$130.00
Tare weight between 5,001 lbs. and 12,000 lbs.	\$260.00
Tare weight over 12,001 lbs.	\$775.00
<i>plus</i>	
Roll-off container	\$26.00

3. Fines for Illegal Disposal of Solid Waste at the Transfer Station:

The fine for illegally disposing of Solid Waste at the Transfer Station shall include, without limitation, pursuant to Section 7-152d of the Connecticut General Statutes, civil penalties for each violation to be determined by the Executive Director as follows:

- First violation: up to a maximum fine of \$1,000
- Second violation: a fine from \$1,001 up to a maximum fine of \$2,000
- Each subsequent violation: a fine from \$2,001 up to a maximum fine of \$3,000

4. Fines for Violations of the Waste Flow Control Ordinance:

The fine for illegally disposing of more than one cubic foot in volume of Solid Waste in violation of the Waste Flow Control Ordinance shall include, without limitation, pursuant to Section 22a-220a(f) of the Connecticut General Statutes, civil penalties for each violation to be determined by the Executive Director as follows:

- First violation: up to a maximum fine of \$2,500
- Each subsequent violation: a fine from \$2,501 up to a maximum fine of \$10,000

Don Walker seconded the motion.

Voice Vote: Unanimous.

<u>AYES</u>	<u>NAYES</u>	<u>ABSTENTIONS</u>
Antunes		
Ciarlone		
Dolan		
Drakonakis		
Walker		

A motion was made by Joe Dolan to move item #7. "Selection of Independent Auditors (McGladrey & Pullen, LLP) to item number #4.

Konstantine Drakonakis seconded the motion.

Voice Vote: Unanimous.

<u>AYES</u>	<u>NAYES</u>	<u>ABSTENTIONS</u>
Antunes		
Ciarlone		
Dolan		
Drakonakis		
Walker		

4. Selection of Independent Auditors (McGladrey & Pullen, LLP).

RESOLVED: A motion was made by Don Walker to approve the selection and appointment of McGladrey and Pullen, LLP to serve as Independent Auditors for the Authority.

Konstantine Drakonakis seconded the motion.

Voice Vote: Unanimous.

<u>AYES</u>	<u>NAYES</u>	<u>ABSTENTIONS</u>
Antunes		
Ciarlone		
Dolan		
Drakonakis		
Walker		

5. Memo of Understanding between the City of New Haven and the New Haven Solid Waste and Recycling Authority concerning the Administration and Enforcement of Certain Solid Waste Ordinances and Waste Flow Control.

RESOLVED: A motion was made by Tony Ciarlone to approve the Memo of Understanding as presented in the form attached hereto as Exhibit C, and to authorize the Executive Director of the Authority to negotiate, execute and deliver, on behalf of the Authority, the Memo of Understanding.

Gerald Antunes seconded the motion.

Voice Vote: Unanimous.

<u>AYES</u>	<u>NAYES</u>	<u>ABSTENTIONS</u>
Antunes		
Ciarlone		
Dolan		
Walker		

6. New Haven Gardens License Agreement.

RESOLVED: A motion was made by Tony Ciarlone to table this item until further information is provided.

Gerald Antunes seconded the motion.

Voice Vote: Unanimous.

<u>AYES</u>	<u>NAYES</u>	<u>ABSTENTIONS</u>
Antunes		
Ciarlone		
Dolan		
Walker		

7. Discussion of “Put or Pay” for Haulers.

After a discussion with the Board, John stated that he would arrange a meeting with Isabella Schroeder (Malcolm Pirnie), Mark Pietrosimone and Larry Rusconi to discuss what needs to be done from a budget standpoint.

8. Scheduling of a date for a Public Hearing related to the FY 2009-2010 Annual Budget immediately prior to the Regular June 10, 2009 Board Meeting at 6:15 p.m.

RESOLVED: A motion was made by Gerald Antunes to schedule the Public Hearing on the FY 2009-2010 Annual Budget at 6:15 p.m. on June 10, 2009.

Don Walker seconded the motion.

Voice Vote: Unanimous.

<u>AYES</u>	<u>NAYES</u>	<u>ABSTENTIONS</u>
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Antunes
Ciarlone
Dolan
Walker

9. Approval of the minutes of the April 8, 2009 Regular Meeting of the Board.

RESOLVED: A motion was made by Tony Ciarlone to approve the minutes of the April 8, 2009 Regular Meeting of the Board in the form attached hereto as Exhibit D.

Gerald Antunes seconded the motion.

Voice Vote: Unanimous.

<u>AYES</u>	<u>NAYES</u>	<u>ABSTENTIONS</u>
Antunes Ciarlone Dolan Walker		

10. Public Comments.

Sherill Baldwin presented a suggestion for the Authority. She is suggesting the formation of a volunteer recycling committee. Due to the economic downturn, she is aware of staff cutbacks at Public Works, which is detrimental to efficiency. She is aware of the possibility of a single stream pilot or full expansion, but there is no funding for any type of community outreach. There could be a substantial benefit from a grass-roots effort to help with outreach and promotion of recycling for the City. Ms. Baldwin would be willing to volunteer and also to recruit volunteers and organize a committee. The Board suggested providing a name and set of goals of the volunteer committee for the June meeting and would be included as an item for discussion on the agenda.

Michael Lattella of Latella Rubbish commented in regards to “put or pay” for haulers. He wanted to state for the record as far another transfer station paying them to bring their trash there, being in business for 11 years, he has never received such an offer. As far as the put and pay, he met with John Prokop and let him know that many of Latella’s customers (a roll-off container, of 8 tons per week) many of those customers are now down to 1 or a half of ton a week. He stated the difficulty of being able to commit to a specific amount of tonnage in this economy is just not going to happen. He felt the Solid Waste Authority’s ability to meet or not meet their bond commitment is being pushed on to the haulers. Latella has no agreement with any other transfer station as far as put to pay. Mr. Latella felt if the tipping fee were lower and more competitive, it would entice other haulers to bring their refuse to the Transfer Station; therefore, the tonnage would go up.

David Swirksy asked if you were to increase your recyclables into the Transfer Station, would you be willing to substitute rubbish tonnage from haulers for recycling tonnage at a zero cost delivered into New Haven based on the fact that you have an income on recyclables if they , and I’m not substituting garbage from New Haven, garbage from New Haven has to go there, but if people say, we can’t generate enough garbage in New Haven to bring it up, I would think there were, from my recollection, we were getting calls from other towns because towns were making with deals with local rubbish haulers with recycling plants, for whatever reason, so there were

instances from what I remember that rubbish haulers were looking to bring in tonnage to different cities or towns just to get rid of it. So would it work if you were to substitute, not just getting the rubbish that you require to get in because it belongs in New Haven, if its generated in New Haven it has to come to New Haven, but with the 14% being off because of the economy and you still want to generate an income of X, would you be willing to bring in recyclables or are you getting paid now for recyclables?

Michael Latella: the majority of my recyclables are already locked into by municipalities to go to recycling centers of the municipality's choice. The municipality pays for disposal. Its part of a contract.

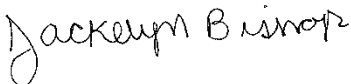
Joe Dolan felt it would have to be evaluated, numbers calculated to see if it would make sense to do that.

John Prokop would consider anything that would generate income and the Board would decide accordingly.

11. Adjournment.

The meeting adjourned at 9:33 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jackelyn Bishop".

Jackelyn Bishop
Authority Secretary

NEW HAVEN SOLID WASTE AND RECYCLING AUTHORITY

Procedures for Adopting or Amending Regulations

Adopted: May 13, 2009

Pursuant to Section 7-273bb(a)(6) of the Connecticut General Statutes, the New Haven Solid Waste and Recycling Authority (the “Authority”) has the power to make and alter regulations with respect to the exercise of its own powers. Accordingly, the Authority has adopted the following procedures to adopt or amend regulations:

1.01 The Authority shall observe the following procedures to adopt or amend regulations:

(a) Notice of a public hearing on the proposed regulations shall be posted on the Authority’s website and published by the Authority one time in a newspaper of general circulation within the City of New Haven no less than five business days prior to the date of the public hearing. The notice must:

- (1) State the date, time and location of the public hearing;
- (2) Include a brief description of the general character of the proposed regulations; and
- (3) State that the proposed regulations are on file for public inspection at the principal office of the Authority.

(b) At the public hearing, the Board of Directors of the Authority (the “Board of Directors”) shall give the public an opportunity to be heard regarding the proposed regulations.

(c) After the public hearing, the Board of Directors shall review the proposed regulations and shall make any revisions or amendments thereto that it determines to be proper and reasonable. At any time thereafter, the Board of Directors may adopt such proposed regulations for the Authority by adopting a resolution approved by a majority of all members of the Board of Directors. Once approved by the Board of Directors, such proposed regulations shall be deemed to be final regulations and shall be effective immediately unless a future effective date is otherwise specified in the resolution adopted by the Board of Directors.

(d) Within five business days following the adoption of final regulations, notice of the adoption of such final regulations shall be posted on the Authority’s website and shall be published by the Authority one time in a newspaper of general circulation within the City of New Haven. The notice must:

- (1) State the effective date of the final regulations;
- (2) Include a brief description of the general character of the final regulations; and

(3) State that the final regulations are on file for public inspection at the principal office of the Authority.

1.02 The Authority shall maintain copies of all final regulations at the principal office of the Authority for public inspection during normal business hours of the Authority, and shall post all final regulations on the Authority's website.

New Haven Solid Waste and Recycling Authority

REGULATIONS

Adopted: May 13, 2009

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**New Haven Solid Waste and Recycling Authority
REGULATIONS**

SECTION 2. Definitions.

For the purpose of these Regulations, the following definitions are established:

- 2.01 “*Act*” means C.G.S. Sections 7-273aa through 7-273oo, inclusive.
- 2.02 “*Authority*” means the New Haven Solid Waste and Recycling Authority, a municipal resource recovery authority created by the City by adoption of ordinance OR-08-0011 on April 22, 2008.
- 2.03 “*Board of Directors*” means the Board of Directors of the Authority.
- 2.04 “*C.G.S.*” means the Connecticut General Statutes, as the same may be amended from time to time.
- 2.05 “*City*” means the City of New Haven, Connecticut.
- 2.06 “*Code*” means the Code of Ordinances of the City, as the same may be amended from time to time.
- 2.07 “*Executive Director*” means the Executive Director of the Authority. The Executive Director, or that person’s designee as approved by the Board of Directors, may act, as authorized, on behalf of the Authority.
- 2.08 “*Person*” means a person, individual, firm, partnership, company, corporation, association, limited liability company, limited liability partnership, trust, organization, association, joint venture, municipality, governmental authority or entity, or any agency or political subdivision of the State of Connecticut or any other similar entity.
- 2.09 “*Regulations*” means the regulations adopted by the Authority, as the same may be amended from time to time.
- 1.10 “*Solid Waste*” shall have the meaning set forth in the Act.
- 1.11 “*Solid Waste Ordinances*” means Sections 120-1 through 120-18 of the Code, Sections 17-121 through 17-135 of the Code, and any other sections of the Code that pertain to Solid Waste and recycling.
- 1.12 “*Transfer Station*” means the Solid Waste and recycling station located at 256 Middletown Avenue, New Haven, Connecticut, and commonly referred to as the “transfer station.”
- 1.13 “*Transfer Station License*” means a license authorizing a Person to dispose of Solid Waste at the Transfer Station.

1.14 “*Vehicle Permit*” means a permit for a vehicle used by a Person to dispose of Solid Waste at the Transfer Station.

1.15 “*Waste Flow Control Ordinance*” means ordinance OR-08-0005 adopted by the City on March 24, 2008 in accordance with C.G.S. Section 22a-220a, which requires that all Solid Waste generated by residential, business, commercial or other establishments within the boundaries of the City shall be disposed of at the Transfer Station.

SECTION 3. Creation and Purpose.

3.01 Pursuant to the Act, the City created the Authority as a municipal resource recovery authority. The Authority is a public body politic and corporate of the State of Connecticut, and is a political subdivision of the State of Connecticut established and created for the performance of the essential public and governmental function of furthering the health, safety and welfare of the residents of the City, by exercising supervision and control over the administration of Solid Waste in the City, including but not limited to, the Transfer Station. C.G.S. Section 7-273bb(a)(6) states that the Authority shall have the power to make and alter regulations with respect to the exercise of its own powers. The terms and provisions of these Regulations are for the purpose of enabling the Authority to further the health, safety and welfare of the residents of the City by administering and enforcing the Solid Waste Ordinances and the Waste Flow Control Ordinance, as permitted by Section 120-49 of the Code. Nothing contained in these Regulations is intended to (i) restrict any of the rights and powers of the City or (ii) give the Authority sole and exclusive control over the administration and enforcement of all of the Solid Waste Ordinances or the Waste Flow Control Ordinance.

3.02 These Regulations shall not repeal any applicable laws, ordinances, standards, rules or regulations set forth by the United States, the State of Connecticut, the City or any of their respective agencies.

3.03 These Regulations shall apply to all Persons who (i) are residents of the City, (ii) conduct business, activities or other operations within the limits of the City, or (iii) are users of the Transfer Station.

SECTION 4. Transfer Station Licenses and Vehicle Permits.

4.01 No Person, other than the City, shall dispose of any Solid Waste at the Transfer Station without first registering with the Authority and obtaining a Transfer Station License from the Executive Director. In addition, all users of the Transfer Station shall obtain a Vehicle Permit from the Executive Director for each vehicle used for Solid Waste disposal at the Transfer Station.

4.02 The Executive Director shall use his or her discretion in granting Transfer Station Licenses and Vehicle Permits. The Executive Director shall consider the applicant’s record of compliance with the Solid Waste Ordinances, the Waste Flow Control Ordinance and these Regulations, and any relevant state and federal laws and regulations in making this evaluation. The Executive Director may request such relevant information as the Executive Director deems appropriate from each applicant prior to, or at any time following, the issuance of a Transfer Station License or a Vehicle Permit including, without limitation, the following: (i) a current list

of the names and locations of each of the applicant's customers and clients within the City, (ii) any information concerning the number, capacity, and location of each of the applicant's containers and dumpsters within the City, and (iii) written documentation confirming that the applicant has offered its customers and clients both recycling and Solid Waste services. The foregoing information shall be provided to the Executive Director in form and substance reasonably satisfactory to the Executive Director.

4.03 The annual fees for Transfer Station Licenses and Vehicle Permits shall be established in accordance with Section 120-15(f) of the Code and written notice of such annual fees shall be posted for public inspection at the Transfer Station. All fees collected by the Authority with respect to Transfer Station Licenses or Vehicle Permits issued by the Executive Director and fines or penalties assessed by the Authority for violations of these Regulations shall be deposited into the account of the Authority for the benefit of the Authority.

4.04 The Transfer Stations Licenses and Vehicle Permits shall have a one year term, and shall expire one year from the date of issuance.

4.05 Any Person in violation of Section 3 of these Regulations shall be subject to a fine up to the maximum amount authorized by the C.G.S. or the Code. Pursuant to C.G.S. Section 7-152d, any Person that illegally disposes of Solid Waste at the Transfer Station shall be liable for a civil penalty up to the maximum amount authorized by the C.G.S. or the Code for first, second and each subsequent violations. A written notice of the applicable fines and penalties that may be imposed by the Authority shall be posted for public inspection at the Transfer Station. These fines and penalties may be added to those resulting from violations of other federal, state and local laws and regulations. Any Person who is assessed a civil penalty pursuant to these Regulations may appeal such assessment to the Superior Court of the State of Connecticut in the manner provided in C.G.S. Sections 7-152b(g).

4.06 The Executive Director shall have the authority to deny, suspend, cancel or revoke a Transfer Station License or a Vehicle Permit of any Person at any time for any one or more of the following reasons:

- (a) The Person has violated these Regulations;
- (b) The Person has not complied with the application procedures or requirements set forth in these Regulations;
- (c) The Person obtained the Transfer Station License or Vehicle Permit by fraud or misrepresentation of the facts; or
- (d) The Person has violated the Waste Flow Control Ordinance.

When a Person's Transfer Station License or Vehicle Permit is denied, suspended, cancelled or revoked, the Executive Director shall notify the Person of such decision in a written notice with a reason for such decision. The Person aggrieved by such decision shall have the right to appeal such decision pursuant to Section 5.01 of these Regulations.

SECTION 5. Waste Flow Control Ordinance Enforcement.

5.01 The City has adopted the Waste Flow Control Ordinance, which as of January 1, 2009, requires that all Solid Waste generated by residential, business, commercial or other establishments within the boundaries of the City shall be disposed of at the Transfer Station. Pursuant to Section 120-49 of the Code, the Authority is authorized to administer and enforce the Waste Flow Control Ordinance. Accordingly, the Executive Director is empowered to take all actions necessary on behalf of the Authority to administer and enforce the Waste Flow Control Ordinance, including, without limitation, sending written notice to violators of the Waste Flow Control Ordinance and assessing fines or penalties in accordance with Section 4.02 of these Regulations. When the Executive Director determines that a Person has violated the Waste Flow Control Ordinance, the Executive Director shall notify the Person of such decision in a written notice with a reason for such decision. The Person aggrieved by such decision shall have the right to appeal such decision pursuant to Section 5.01 of these Regulations.

5.02 Any Person in violation of the Waste Flow Control Ordinance shall be subject to a fine up to the maximum amount authorized by the C.G.S. or the Code. Pursuant to C.G.S. Section 22a-220a(f), any Person that illegally disposes of more than one cubic foot in volume of Solid Waste in violation of the Waste Flow Control Ordinance shall be liable for a civil penalty up to the maximum amount authorized by the C.G.S. or the Code for first and each subsequent violations. A written notice of the applicable fines and penalties that may be imposed by the Authority shall be posted for public inspection at the Transfer Station. These fines and penalties may be added to those resulting from violations of other federal, state and local laws and regulations. All fines or penalties assessed by the Authority for violations of the Waste Flow Control Ordinance shall be deposited into the account of the Authority for the benefit of the Authority

SECTION 6. Appeals Process.

6.01 The following appeals process shall apply to (i) any Person whose Transfer Station License or Vehicle Permit has been denied, suspended, cancelled or revoked in accordance with these Regulations, and (ii) any Person who has been assessed any fines or penalties by the Authority for violations of these Regulations or the Waste Flow Control Ordinance:

(a) The Person aggrieved by the denial, suspension, cancellation or revocation of a Transfer Station License or a Vehicle Permit or assessed a fine or penalty may appeal such decision if, within seven calendar days of receipt of written notice of the Executive Director's decision, such Person files a written notice of appeal with the Executive Director requesting a hearing before the Authority. The denial, suspension, cancellation or revocation of a Transfer Station License or a Vehicle Permit by the Executive Director or fine or fee assessed for violations of these Regulations or the Waste Flow Control Ordinance will be binding upon the aggrieved Person until it has been overruled, whether by appeal or otherwise.

(b) Following the receipt of a notice of appeal pursuant to Section 5.01(a) of these Regulations, the Executive Director shall (i) set a time, date and location for a hearing, which shall be no later than thirty calendar days following the Executive Director's receipt of such notice of appeal, and (ii) provide the aggrieved Person with written notice at least ten

calendar days in advance of such hearing. The hearing shall be conducted by a panel consisting of the Executive Director and two members of the Board of Directors. The panel shall hear the aggrieved Person's appeal and render a determination. The aggrieved Person and the Authority shall have the opportunity to be represented by counsel at such hearing.

* * * * *

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF NEW HAVEN
AND THE NEW HAVEN SOLID WASTE AND RECYCLING AUTHORITY
CONCERNING THE ADMINISTRATION AND ENFORCEMENT OF CERTAIN
SOLID WASTE ORDINANCES AND WASTE FLOW CONTROL**

[_____], 2009

Purpose:

This Memorandum of Understanding ("MOU") defines the agreement between the City of New Haven, Connecticut (the "City") and the New Haven Solid Waste and Recycling Authority (the "Authority") with respect to the administration and enforcement of (i) Sections 120-1 through 120-18 of the City's Code of Ordinances, as amended from time to time (the "Code"), Sections 17-121 through 17-135 of the Code, and any other sections of the Code that pertain to solid waste and recycling (collectively, the "Solid Waste Ordinances"), and (ii) the City's waste flow control ordinance OR-08-0005 adopted by the City on March 24, 2008 (the "Waste Flow Control Ordinance").

Agreement:

The parties understand that the Authority is responsible for the operation of the solid waste and recycling transfer station located at 256 Middletown Avenue, New Haven, Connecticut (the "Transfer Station"), and that pursuant to Section 120-49 of the Code, the Authority is expressly empowered and authorized to administer and enforce the Solid Waste Ordinances, including the Waste Flow Control Ordinance. The parties further understand that the City has not given the Authority sole and exclusive control over the administration and enforcement of the Solid Waste Ordinances and the Waste Flow Control Ordinances. However, in order to further the health, safety and welfare of the residents of the City and to efficiently administer and enforce the Solid Waste Ordinances and the Waste Flow Control Ordinance, the City and the Authority acknowledge and agree upon the following:

1. The Authority shall be responsible for administering and enforcing all licenses issued for the disposal of solid waste at the Transfer Station and vehicle permits issued for vehicles used to dispose of solid waste at the Transfer Station.
2. The Authority shall be responsible for administering and enforcing the Waste Flow Control Ordinance, to ensure that all solid waste generated by residential, business, commercial or other establishments within the boundaries of the City shall be disposed of at the Transfer Station.
3. The Authority shall retain all fees, fines and penalties collected by the Authority or the City in connection with the matters set forth above, and the City agrees to promptly disburse to the Authority all such fees, fines and penalties to the extent they are collected by the City.
4. The City and the Authority shall work collaboratively with each other to achieve the objectives of this MOU.

Miscellaneous:

This MOU will remain in effect until terminated by the City or the Authority. Neither this MOU, nor any of the terms or provisions hereof, may be amended, modified, supplemented or waived except by a written instrument signed by both the parties hereto (or, in the case of a waiver, by the party granting such waiver). No waiver by either party with respect to any default, misrepresentation, or breach of covenant hereunder shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence. If any provision of this MOU is determined to be unenforceable, the parties hereby agree that such provision may be reformed so that it is enforceable to the maximum extent permitted by law. In the event that any provision of this MOU cannot be reformed, such provision shall be deemed to be severed from this MOU, but every other provision of this MOU shall remain in full force and effect. This MOU may be executed in multiple counterparts, including by way of facsimile or other electronic transmission, each of which shall be deemed an original, but all of which taken together shall constitute one instrument.

The parties to this MOU have executed it to be effective as of the date first written above.

City of New Haven

By: _____
Name: John DeStefano, Jr.
Title: Mayor
Date

New Haven Solid Waste and Recycling Authority

By: _____
Name: John Prokop
Title: Executive Director
Date

MINUTES OF THE APRIL 8, 2009
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 April 8, 2009, at 6:30 P.M. at New Haven City Hall, 165 Church Street, 2nd Floor, Meeting Room #2, New Haven, Connecticut 06510.

Chairman Dolan called the meeting to order at 6:45 p.m.

Directors present: Dolan, Antunes, Ciarlone, Lemar and Walker
(note: Gerald Antunes left the meeting at 7:15 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
Mark Pietrosimone, City Controller
Lawrence D. Rusconi, Director-Office of Management & Budget
Glenn Santoro, Counsel to the Authority
Nimesh Patel, Counsel to the Authority

11. Approval of the minutes of the March 11, 2009 Regular Meeting of the Board.

RESOLVED: A motion was made by Joe Dolan to approve the minutes of the March 11, 2009 Regular Meeting of the Board.

Gerald Antunes seconded the motion.

Voice Vote: Unanimous.

AYES

Antunes
Ciarlone
Dolan
Lemar
Walker

NAYES

ABSTENTIONS

A copy of the approved minutes of the March 11, 2009 Regular Meeting of the Board is attached hereto.

12. Statement of Net Assets, Statement of Revenue and Expenses & Budget Summary for the period 7/1/08 to 2/28/09.

A presentation was made by Mark Pietrosimone to the Board. Mr. Pietrosimone presented the originally approved budget, what the amounts were on the expense side and also the revenue side. As of February 28th projected expenditures are \$4,833,000. The projected revenues are 5,283,000, which will provide an operating surplus for year based on the way the fiscal year is going right now.

A report will be provided to the Board on a monthly basis, so the Board can track how the Authority is performing and will also be able to see projected expenditures.

Chairman Dolan asked if the Board had any questions for Mr. Pietrosimone.

There were none at this time.

Mr. Prokop stated that the residential tonnage beginning in July is down about 10%. Last year the Authority did 44,000 tons. The tonnage now is 40,000 which is off about 4,000. The expenses for the City will be adjusted accordingly and that is what that number shows.

Joe Dolan asked why there is a difference in the budget to actual?

Joe Dolan asked on the expense side, the other entity hauling, is obviously an expense we thought we would incur and aren't. Could someone explain what that expense is.

John Prokop stated that there were 2 fee structures that the Authority was paying up until December. So for July of last year until December the recycling was approximately \$240,000, cost to the City of New Haven. The Authority's new contract went into effect when we started collecting revenue. When the Authority was created, the City was still bound to December 31st to pay that fee structure out. Beginning in January, the Authority started collecting revenue.

Mark Pietrosimone stated what John is referring to is in the hauling disposal residential (\$6.6m) if you look on the bottom of the report, it's in the NHSWR line. That is the one that we originally from July through December were collecting the \$3 tip fee and that's why if you look at that right now, you will see \$2,233,000 for the approved budget and you see revenues of \$386,000, but if you look at projected revenue, for the last 4 months there has been a large increase because of collecting the tip fee and the entire cost.

Joe Dolan asked if the City has been reimbursed for staff time?

Mark Pietrosimone stated that is not included in the report. On your suggestion, we will be adding it on the next monthly report.

Anika Lemar asked what are the other contractual services?

Mark Pietrosimone stated that the contractual services are the Swirsky contract, and also the Accountants and Legal Counsel, Malcolm Pirnie.

Joe Dolan asked if there were any more questions for Mark Pietrosimone.

Anika Lemar asked why some of the expenses lines don't match up. Could we maybe have a key or something that lets us know what those line items are? They are not named exactly.

Mark Pietrosimone: A description of what the lines are?

Anika Lemar: that would be the most helpful.

Mark Pietrosimone: Yes, we can do that

13. Consideration and approval of Change in User Fees.

Anika Lemar asked if there is a fee structure for separated recyclables?

John stated that they don't charge anyone a fee, if you bring in separated recyclables, you can take them to the residential drop-off free of charge' if you deliver it and have proof of residence. The Authority gets \$28 a ton for that.

Anika Lemar: Do we get the \$28 those residential recyclables?

John Prokop: Yes, and we do it right now.

Joe Dolan: what about electronics recycling?

John Prokop: There is a law that goes into effect on July 1st that requires the Authority to provide a location. I'm working with 3 independent companies who are trying to solicit our business. Effective October 1st all of the manufacturers, under the Statute are reimbursing any of these that are collected and delivered to them, based on a fee structure. In the interim of that, I have not yet provided an electronics pick-up. What we've done in the past is have a budget schedule for 2 deliveries and pick-ups a year at the Transfer Station. We advertise in the paper and the general public can call ahead, sign up and bring their electronic devices to Public Works. It is then loaded on a truck and taken away. After Oct. 1st, I'm trying enter into an agreement that will do that. I am looking into having curbside electronic pick up. If we can't do curbside, I'm trying to work with the Superintendent of Schools to use the school yards as a redemption place.

Approval of User Fees

RESOLVED: In accordance with Section 7-273bb(a)(9) of the Connecticut General Statutes, the following User Fees, to be effective as of July 1, 2009 and to continue in effect thereafter until revised or modified by the Authority, are hereby adopted and approved, and that the proper officers of the Authority are hereby authorized, empowered and directed to publish the User Fees in a newspaper of general circulation in the City of New Haven on or before April 30, 2009, and do and perform such additional acts as may be necessary or required to carry out the purposes of the foregoing.

Waste Type	User Fees
Residential MSW – Mixed ¹	\$87.50 per ton
Commercial MSW – Mixed ¹	\$87.50 per ton
Commercial C&D ²	\$85.50 per ton
Commercial Yard Waste	\$45.00 per ton

1) Municipal Solid Waste (MSW), bulky waste and mixed waste loads.
2) Construction and Demolition Debris (C&D).

RESOLVED: A motion was made by Anika Lemar to adopt the User Fees as presented.

Don Walker seconded the motion.

Voice Vote: Unanimous.

<u>AYES</u>	<u>NAYES</u>	<u>ABSTENTIONS</u>
Ciarlone		
Dolan		
Lemar		
Walker		

Joe Dolan asked for a motion to add an item to the agenda, which is discussion of Authority Regulations.

A motion was made by Joe Dolan to add this item to the agenda.

Tony Ciarlone seconded the motion.

Voice Vote: Unanimous.

<u>AYES</u>	<u>NAYES</u>	<u>ABSTENTIONS</u>
Ciarlone		
Dolan		
Lemar		
Walker		

John Prokop stated wants to revisit the permit process by City Ordinance that was is in place to allow the Authority to act upon and to require a schedule from the Haulers as a caveat or requirement in order to be permitted. If this information is not provided 30 days prior to July 1st, which is the beginning of the fiscal year, then they will not be issued a permit to do business in the City.

Joe Dolan asked if the Authority has the power to issue a permit?

John Prokop: Yes.

Joe Dolan: you want to now make permitting with conditions?

John Prokop: Yes.

Joe Dolan: That's what we need a regulation to do. Backing up a step, we need a set of procedures to follow when adopting the regulations to include a notice requirement, a public hearing, and also the actual regulation itself. Also, a process of appeal or by John Prokop's denial as he deems necessary to withdraw a permit for non-compliance. That is what I thought was the outcome of our last meeting was. We want to start this the beginning of next month.

John Prokop, they would have to provide by June 1st this information to us in order for them to get their permit issued by July 1st.

Joe Dolan: we can still do by regulation, a public notice and a hearing in May and still give the Authority the right to refuse to issue or withdraw a permit if a hauler does not comply.

John Prokop: I don't personally know how that plays out for the permits that are already in effect and are not yet to expire.

Glenn Santoro: are we talking 120-15f "Solid Waste Disposal Facility Permits"? That is the permit that references a year period, Section F is "these permits shall have a one year term which will expire one year from date of issuance", so there are two permits up for commercial haulers and in another section they have permits in this section, these permits as the Ordinance says a one year term and that's why Jim DeVisco I think at the last go-around had drafted a change to the Ordinance, changing that to a fiscal year basis because the Ordinance right now requires that it is not a fiscal year basis, on a one year term.

Another type of permit does reference a different ordinance which allows a fiscal year basis, this one does not. The regulations can't change that.

Anika Lemar: does that work for you John? If we are acquiring a schedule from each permitted hauler, but we're not changing the term of the permits?

John Prokop: it will do. Once we get one or two people to give us that information and they know it's worth doing, most people will capitulate, I believe.

Joe Dolan: would anyone object to having a draft regulation done, posting a public notice, and having a hearing in May?

John Prokop: for the language that is asking for that information? That would be great.

Anika Lemar: I will not be at the May meeting.

Joe Dolan: We can review the draft and have a hearing on May 7th, meet at 6:30 p.m.?

Glenn Santoro: or we can have a public hearing before the meeting, post that notice and then at 6:30 p.m discuss it and adopt it and publish it after the meeting. The notice will be a public hearing regarding discussion of proposed regulations for the Solid Waste Authority, that could be held at 6:20 p.m., before the 6:30 p.m. meeting.

Joe Dolan: if that is o.k. with everyone, we will circulate a draft, along with the procedure for adopting regulations that we can follow for the future, what that procedure will include; publication, notices, timing and adoption.

John Prokop: would the Board mind if I sent out a letter to the haulers?

Anika Lemar: why don't we do this? Why don't we make it available at the Transfer Station. Have a flyer or something that they can have.

There is also a link on the website for this information.

A motion was made by Joe Dolan to hold a hearing on the draft regulations at 6:15 p.m. at the May 13th, 2009 Regular Meeting.

Tony Ciarlone seconded the motion.

Voice Vote: Unanimous.

<u>AYES</u>	<u>NAYES</u>	<u>ABSTENTIONS</u>
Ciarlone		
Dolan		
Lemar		
Walker		

4. Discussion of Consulting Services Regarding Waste Flow Control.

No action taken

5. Public Comments

None at this time.

6. Adjournment

RESOLVED: A motion was made by Tony Ciarlone to adjourn the meeting at 8:10 p.m.

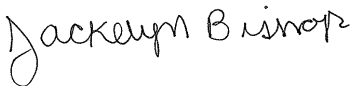
Anika Lemar seconded the motion.

Voice Vote: Unanimous.

<u>AYES</u>	<u>NAYES</u>	<u>ABSTENTIONS</u>
Ciarlone		
Dolan		
Lemar		
Walker		

The meeting was adjourned at 8:05 p.m.

Respectfully submitted,



Jackelyn Bishop
Authority Secretary