

Solid Waste Management Advisory Council

Minutes, October 26th, 2009

Council members present: Jeff McGown, Kevin Roche, Mark Draper, Bob Peabody, Sue Millett, Greg Keene, Joe Kazar, Don Hudson, (by conference call) Ferg Lea, Carol Fuller, Jody Harris (designee for ex-officio member Martha Freeman), Paula Clark (designee for ex-officio member David Littell). Staff from SPO: George MacDonald, Sam Morris. Absent: John Bubier, Mike Barden, and Jackie Conway.

Chair Greg Louder convened the meeting at 1:00 PM with introductions. The council accepted the January 5th, 2009 meeting minutes and approved the day's agenda.

By statute, the Council is to elect a chair from its membership annually. Greg Louder was re-elected by unanimous vote to serve as Chair for 2009-2010.

The council meeting moved on to its primary topic, to assist the State Planning Office with its review and assessment of the State's solid waste management policy, as directed by LD 760, 'An Act To Improve Landfill Capacity'.

Specifically, the Council was asked to look at 2 sections of the law (Chapter 412 of the 2009 1st regular session):

3) Whether amendments to the operating services agreement between the State and the operator of the state-owned landfill should be negotiated to eliminate fuel services agreements and caps on tipping fees and to establish annual maximum fill rates.

4) Whether the restriction on the expansion of commercial solid waste disposal facilities in Title 38, section 1310-X, subsection 3, paragraph B should be amended to allow a currently existing facility that is not under order or agreement to close to expand onto any contiguous property that the licensee may own or acquire.

The Council took up section 4 first. It was made clear to the Council that amending the current law to allow for an expansion as expressed in section 4 did not mean lifting the ban on future commercial facilities, and the council largely re-affirmed their support for the current ban. The council also learned that there is a precedent for this change in law when the original law was modified by changing its effective date to allow for Pine Tree Landfill in Hampden to build on previously purchased land.

The Chair then polled the Council members for their opinions.

- o Amending the law buys us more time to work on alternatives to land disposal while keeping the ban and not developing a green field site.
- o Maine is landfill dependent, and this amendment only will apply to the WMI Crossroads landfill in Norridgewock.
- o The downside would be allowing for an expansion of the least desirable solid waste management option under the Waste Hierarchy. If approved should be accompanied by a beefing up of support for the higher priorities of the waste hierarchy.
- o Is it a good idea to make a specific law that effects only one facility?
- o Coming to a decision on this issue will help other facilities and the communities that depend upon them to make their long range plans.
- o How does the state benefit, how will this change benefit the people of Maine?
- o Does this open the door on the ban?
- o If Crossroads has 10-12 years of capacity remaining, what is the rush to move on this now?
- o The ban and considering this change in law are 2 separate issues
- o The WTEs financial decisions are based upon continuation of the ban and reasonable availability of landfills for disposal of their by products.

- Is the ban a good thing?
- The expansion would provide disposal options for Maine communities.
- Would like to hear from the effected communities, from Norridgewock.
- General comment: the state needs to plan for disposal capacity beyond Juniper Ridge; it does not make sense to plan only for 20 years.

The council was generally supportive of:

1. amending current law to allow for the expansion at Crossroads landfill
2. increasing support for priorities of the Waste hierarchy
3. maintaining the ban on new disposal facilities.

The Council noted that the Department of Environmental Protection would determine the public benefit of expanding the facility even if the law change is enacted.

The council moved on to Section 3, effecting only JRL: the fuel agreement, cap on tip fees, and the consideration of maximum annual fill rate at Juniper ridge.

A wide majority of the Council was opposed to establishing maximum fill rates at the state owned landfill, JRL. Issues include:

- a maximum fill rate would restrict the landfill from meeting emergency needs in the case of an increase in debris from hurricane or ice storm
- Rather than maximum fill rate on the annual total waste stream, could look at maximums on different types of waste
- Rather than an absolute maximum, could set a limit and charge more for waste accepted over that limit
- How do you decide who gets shut off? A question of fairness.
- Fill rates should be tied to the operation of the facility, through license agreement
- There are better ways of preserving capacity. Limit MSW bypass for example, diverting that waste stream to WTE plans to keep them operating at full capacity

On the cap on tipping fees, the Council expressed the opinion that market forces should be allowed to work, that there is considerable downward pressure on tip fees across the industry and JRL is particularly sensitive to the cost of transportation which cannot be separated from tip fees as the 2 are generally quoted as one price. This question should be revisited if and when the state ever gets to a “one commercial landfill” scenario. Several council members suggested the cap should be looked at in a different context. Landfilling is the lowest management option on the hierarchy. Landfilling should be more expensive. The cap might be removed to increase the tip fee to discourage landfilling. Perhaps we should be talking about a floor rather than a cap. In addition the tip fees should be adjusted to properly fund the state’s waste management programs. Another suggested that the tip fee be tied to the market, when tip fees rise to a certain standard, the cap is triggered.

On the fuel agreement in the current OSA for JRL, the Council agreed that the situation is in limbo for various reasons to allow for any opinion at this point:

1. Casella is currently not supplying fuel to the new owners of the mill, Patriarch Partners under the terms of the agreement.
2. The new DEP rules for Processing Facilities are not yet published.
3. Would changing the terms of the original RFP, and then a change in the OSA, opening up the OSA, require a ruling from the Ag, public hearing and comments,
4. Could the state get a better deal on the service agreement if this provision were removed?

With all the agenda items completed, the Chair thanked Council members for their input and attention and adjourned the meeting at 3:00 pm.