

MUNICIPAL REVIEW COMMITTEE, INC.

BOARD OF DIRECTORS

A quarterly meeting of the Board of Directors of Municipal Review Committee, Inc. was held on Wednesday, April 25, 2018 at 10:00 a.m. at the Town of Orono Municipal Building, 59 Main Street, Orono, Maine. In attendance were the following:

Directors:

Sophie Wilson, City of Orono
Chip Reeves, Town of Bar Harbor
Karen Fussell, City of Brewer
Tony Smith, Town of Mount Desert
Cathy Conlow, City of Bangor
Kevin Howell, Town of Carmel
Irene Belanger, Town of China
Gary Bowman, Town of Oakland (newly elected at beginning of meeting)

Staff:

Greg Louder, MRC Executive Director

Consultants:

George Aronson, CRMC
Daniel G. McKay, Eaton Peabody
Jessamine Pottle, CES, Inc.

Guests:

Hank Lang, PERC
Victor Horton, MRRA

Jennifer Baroletti kept the minutes of the meeting and Chairman Reeves presided.

President Reeves convened the meeting at 10:17 a.m. Sophie Wilson asked for amendments to the agenda to include an update on recycling and the transition process, and President Reeves advised that those items would be included in the administrative report.

CONSIDERATION OF FILLING A VACANCY FOR THE REMAINDER OF 2018

Sophie Wilson noted that there is a current vacancy on the board left by Jim Guerra whose district is no longer a member of the MRC. President Reeves thanked him for his great board service, and expressed his hope that his communities will rejoin the MRC in the future and that he can join us again. Sophie Wilson noted that Gary Bowman of the Town of Oakland has attended meetings regularly and has offered his service. Upon motion made and duly seconded, it was unanimously:

VOTED: That Gary Bowman hereby is elected to fill the vacancy on the Board of Directors created by Mr. Guerra's departure to serve until the next annual meeting.

APPROVAL OF MINUTES

The Board considered approval of the minutes of the January 31, 2018 quarterly meeting and the March 27, 2018 special telephonic meeting of the Board of Directors. Kevin Howell noted that he was in attendance at the March 27, 2018 telephonic meeting, and that the minutes should be corrected to reflect his attendance. Karen Fussell noted edits to the January meeting minutes, including clarification of the 2019 budget and Mr. Stuart-Paul's representations concerning interim waste disposal options. Upon motion made and duly seconded, it was unanimously:

VOTED: That the minutes of each of the January 31, 2018 quarterly meeting of the Board of Directors, and the March 27, 2018 special meeting of the Board of Directors hereby are approved in the forms presented to the Board at this meeting, as corrected.

**FINANCE COMMITTEE REPORT; CONSIDERATION OF FINANCIAL
STATEMENTS & BILLS PAYABLE AS OF APRIL 19, 2018**

Sophie Wilson reported that the Finance Committee had met and reviewed the asset management letter provided by MRC's technical advisor, George Aronson. The Finance Committee also discussed the projected estimated transportation costs to offset costs for those communities traveling outside of their normal delivery route for disposal. Costs are projected to be between \$25,000-\$35,000 per month, which is within the \$1 million budget allocated for additional transportation costs. She then presented bills payable totaling \$57,640.05. Ms. Wilson noted that there were no expenses outside of the usual course, and that the Finance Committee recommends approval of the payables. Upon motion duly made and seconded, it was unanimously:

VOTED: That bills payable of \$57,640.05 as presented to the Board at this meeting hereby are approved for payment.

Ms. Wilson reviewed the January-April 2018 Profit & Loss Statement noting the \$100,000 in miscellaneous income represents a payment from the Town of Hampden to the MRC representing the Town of Hampden's contribution to the costs of the larger water line for which the MRC has already paid. She also noted that there was some miscoding for amounts that need to be reallocated between 2018 general operations and PERC partnership windup, and that she and Greg Louder will work with the MRC's bookkeeper to make adjusting entries.

Cathy Conlow joined the meeting at 10:28 a.m.

A general discussion ensued regarding revisiting the investment guidelines as the MRC moves into the post-2018 era. It was noted that the investment firm package has not been put out to bid in a very long time and that the MRC should consider issuing a Request for Proposals ("RFP") for those services in July, 2018. It was agreed that Sophie Wilson, Greg Louder and

George Aronson will work on a revised investment policy and RFP to present to the Board at the July meeting.

The 2018 Budget includes revenue of approximately \$93,000 from Site Lease payments, which Coastal has not yet begun to pay. Negotiations are ongoing between the MRC staff and Coastal regarding the contractual basis in the Site Lease for the terms and timeline for payment. The MRC is also accruing liquidated damages from Coastal in the amount of \$1,250 per day beginning April 1st, up to a maximum of \$100,000. Coastal is reporting to the MRC on accrued amounts of these payments on a weekly basis, and will be making payments monthly.

**CHARTER MUNICIPALITY ASSET MANAGEMENT REPORT- CUSTODY
ACCOUNT, TIP FEE & OPERATING BUDGET STABILIZATION FUNDS; 2017 AND
1ST QUARTER 2018 ACCOUNTING RECORDS, FUNDING OF RESERVES UNDER
THE JOINDER AGREEMENT**

George Aronson presented the Charter Municipality Asset Management Report. As of April 1st, there was \$2,052,629.50 in the Custody Account, \$19,022,337.37 in the Tip Fee Stabilization Fund, and \$298,916.80 in the Operating Budget Stabilization Account. Mr. Aronson discussed the liquidity of funds, and noted that three new subaccounts were formed at the end of 2017 using only funds allocated to Joining Members as they relate to the Hampden facility. Mr. Aronson specifically clarified that these subaccounts are not funded from the accounts of Departing Members. For these three subaccounts, there was a balance of \$3,002,860.67 in the Delivery Sufficiency Fund, which amount has been allocated to fund any waste delivery shortfalls. The Supplemental Cash Collateral Account had a balance of \$3,773,022.14 at the end of the fourth quarter of 2017. This subaccount was a temporary requirement as security for certain MRC payment obligations under the Master Waste Supply Agreement, and since that obligation is no longer in place, those funds have been returned to the Tip Fee Stabilization Fund. The Cash Sweep Account has a balance of \$469.10, which account

is being used to accept interest earned by the Delivery Sufficiency Fund and Supplemental Cash Collateral Account, and to pay associated bank fees.

Mr. Aronson briefly reviewed Table 1 to the report which shows expenditures, noting the \$1.5 million value of shares in the PERC partnership. Put options were exercised in February 2018, and upon receipt of the funds from the PERC partnership, the MRC subsequently paid out the Put Option amounts to those Equity Charter Municipalities electing to put their PERC Partnership interests. In the fourth quarter of 2017, the \$1.33 million reserve fund held by PERC's senior lender in conjunction with its financing was released by PERC's banker, and the MRC promptly distributed those funds to the Equity Charter Municipalities. No offset was needed and those funds are no longer on the balance sheet. The cash distribution for the 1st quarter of 2018 is \$546,172.77, which will be the last distribution under this regime. Mr. Aronson recommended that the Board approve the cash distribution.

Mr. Aronson referenced previous discussions regarding the allocation of funds in each of the Custody Account, Tip Fee Stabilization Fund, and Operating Budget Stabilization Account as of April 1, 2018 to Equity Charter Municipalities. MRC staff has gone through the process of allocating every transaction among each of the eighty-six Equity Charters. This process is transparent and members can feel free to review or request a copy of the calculations at the MRC office. Based on this reconciliation, Mr. Aronson recommended that the MRC transfer \$562,901.30 from the Custody Account, \$10,812,901.25 from the Tip Fee Stabilization Fund, and \$206,185.64 from the Operating Budget Stabilization Account into an escrow account at Peoples United Bank, which amounts represent the estimated amounts as of April 1, 2018, to be paid out to the Departing Municipalities. The auditor will review and verify those numbers, and some adjustment is possible. In response to a question, Mr. Aronson clarified that PERC

Partnership windup costs were removed prior to the calculation of these balances, based on the 2018 budget. If there are additional costs above those contemplated in the budget, those costs would need to be deducted prior to the July meeting when the MRC Board votes to accept the auditor's report and distribute funds to Departing Members. Sophie Wilson noted that payments to departing Equity Charter Municipalities would be made in August after approval at the July board meeting. Mr. Aronson confirmed that there is sufficient liquidity in the Tip Fee Stabilization Fund to fund the contemplated escrow account. There being no further discussion, President Reeves asked for a motion to approve the transfers as recommended by Mr. Aronson, noting that a super majority vote is required to approve the transfers. Upon motion made and duly seconded, it was unanimously:

VOTED: That that the MRC hereby is authorized and directed to transfer \$562,901.30 from the Custody Account, \$10,812,901.25 from the Tip Fee Stabilization Fund, and \$206,185.64 from the Operating Budget Stabilization Account into an escrow account at Peoples United Bank, which amounts represent the money to be paid out to the Departing Municipalities as of April 1, 2018; and each of the President and the Treasurer, acting singly, hereby is authorized to take such action as may be necessary or appropriate to effectuate such transfers.

President Reeves asked for a separate motion to approve the cash distribution to Charter Municipalities, and upon motion duly made and seconded, it was unanimously:

VOTED: That the recommended cash distribution for the 1st quarter of 2018 in the amount of \$546,172.77 hereby is approved.

Mr. Aronson noted that the report also addresses reserve funds, and the table on page 7 represents money remaining for the account of Joining Members after funds allocable to Departing Municipalities have been escrowed. Exhibit B to the Joinder Agreement outlines reserve fund requirements that were obligations of MRC, and the MRC has either satisfied all obligations in the Joinder Agreement, or has the money necessary to satisfy any remaining

obligations. At the beginning of this process the MRC Board discussed revisiting the status of reserve funds in early 2018, but Mr. Aronson recommended that the MRC Board wait until construction is complete.

FIBERIGHT/COASTAL FACILITY CONSTRUCTION PROGRESS REPORT

Carl Knowlton, Head of Corporate Development and Asset Management at Fiberight provided an update on the construction effort, noting that a tough winter contributed to a three-month delay on the start of the MRF installation which is now projected for June, 2018. Mr. Knowlton noted that Fiberight built slack into the schedule to account for bad weather, and is currently on track for mechanical facility completion in its entirety (including the front end and back end anaerobic digestion) by the end of 2018, with expected commercial operation in the first quarter of 2019.

In response to a question, Mr. Knowlton noted that Fiberight expects July 2018 is the earliest the facility can begin accepting waste, as it works with its construction partners through the impact on the construction schedule of having trash trucks on site. Mr. Knowlton noted that the front end opening in July would likely be a soft opening. Sophie Wilson emphasized the importance of commercial operation, as the MRC plans in place for MSW disposal run through September at the latest. President Reeves noted that the MRC is due an updated schedule at the beginning of next month.

Mr. Knowlton clarified that the front end processing system will pull out recyclables but the anaerobic digester will not be up and running in July. The MSW not diverted during the interim period of processing through the MRF only will be landfilled.

There are monthly meetings at the site to address concerns, and monthly progress reports are required under the financing agreements. There is also a bi-weekly construction meeting

amongst the contractors which stakeholders are invited to attend, and the construction schedule is regularly updated and included in the progress report. President Reeves noted that DEP and CES are staying on top of the reporting requirements. In response to a question, Mr. Knowlton reported that Coastal has engaged NAES, which will be providing operations and maintenance under a long term contract, and a potential general manager has been identified.

ADMINISTRATIVE REPORT – MSW DELIVERIES TRANSITION THROUGH INTERIM DELIVERY PERIOD, MRRA CONFERENCE, DEP APPROVAL OF JRL LICENSE AMENDMENT, DEPARTING MUNICIPALITY WITHDRAWAL AGREEMENTS, 2017 AND 1ST QUARTER 2018 AUDIT SERVICES, TRANSFER OF TIP FEE ACCOUNTING, NEW VERSION OF BYLAWS EFFECTIVE APRIL 1, 2018

Greg Louder delivered the Administrative Report, noting that MSW deliveries during the interim delivery period have gone as anticipated with the exception of Blue Hill/Surry which is delivering its MSW to PERC in violation of its Joinder Agreement. Mr. Louder presented a copy of his recent letter to Blue Hill/Surry representatives and reported that he is actively working to determine an interim delivery solution which is the best fit for them, but also fits within the MRCs contractual obligations. Mr. Louder emphasized that all members must be aware that actions or non-actions of any one member can impact the entire membership. A general discussion ensued and several board members indicated that they have received pushback from communities regarding landfilling. Dan McKay advised as to the potential liabilities and measure of damages arising from the breach by Blue Hill/Surry of its obligations under the Joinder Agreement.

Mr. McKay also noted the exclusivity provision of MRC and Coastal's contract with Waste Management, and to the extent Waste Management does not receive all waste controlled by Joining Members, Waste Management would have a claim against both the MRC and Coastal, each of whom would then have potential claims against Blue Hill/Surry. An

extended discussion ensued regarding whether and to what extent the MRC should seek an accommodation with Waste Management that would allow interim delivery of MSW to destinations other than the Crossroads landfill by Joining Members with strong objections to interim landfilling.

Greg Lounder reported that he recently attended the Maine Resource Recovery Association (“MRRA”) Conference at the Samoset in Rockport, along with Board Members Karen Fussell, Irene Belanger and Kevin Howell. The conference was more heavily attended than in recent years and seemed to be a general success. It was a good opportunity to touch base with member communities, and the MRC presented at a session regarding regional communication and the future of MSW processing in Maine.

Mr. Lounder then reported on the status of DEP’s approval of the pending application for a license amendment at the Juniper Ridge Landfill, noting that the approval was limited. The applicant had sought to remove the existing deadline of March 31, 2018 for the delivery of MSW from Southern Maine sources to JRL. The affect would be to allow continued landfilling of that MSW until existing air space was exhausted, which was estimated to be within 5 years. The DEP, however, only permitted a limited extension of 12 months with a potential 6-month one-time further extension for cause.

Mr. Lounder reported that he has received 38 of 58 signed withdrawal agreements from Departing Municipalities, and will continue to work with withdrawing members to obtain the remaining signatures. He noted that the current audit will cover the five quarters ending March 31, 2018, and Mr. Lounder will schedule the auditor’s on-site work soon to remain on track to have everything finalized by the July meeting.

With regard to the transfer of tip fee accounting, Mr. Louder noted that the MRC has generally transferred over to the new system and is now invoicing Joining Members for the \$70/ton tip fee. Representatives at Coastal and its accounting services subcontractor have been working very diligently with the MRC to make this transition as smooth as possible. The transition has gone relatively well, and Mr. Louder praised Carl Knowlton's team for their efforts in this regard.

Mr. Louder noted that the new version of the MRC bylaws became effective on April 1, 2018. The new version will be posted to the MRC website, and the previous version will be archived.

Mr. Louder distributed to the Board a breakdown of extra costs by member associated with interim hauling arrangements, noting that he has been working diligently with communities to identify haulers and solidify these arrangements. Joining Members and haulers have been very reasonable to work with, and 80-90% of the communities are settled in terms of qualified extra costs with local haulers. He is generally pleased with these arrangements with haulers. Mr. Louder noted that he has documented communication in this process, and Mr. Aronson suggested that the MRC prepare a one-page policy of guiding principles so that all member communities are clear that they all are being treated the same way. It was agreed that Mr. Aronson and Mr. Louder will prepare this document and bring it to the board for review.

The Board next discussed the need for a recycling template agreement for zero-sort, and a discussion ensued regarding the timeline and local recycling efforts, noting that existing arrangements in some member communities are due to expire on June 30th. After discussion, it was agreed that the Flow Control Committee would establish a template recycling agreement to bring to the full board for consideration.

The Board took a lunch break at 12:01 p.m.

At 12:42 p.m., the board reconvened.

EXECUTIVE SESSION

A motion was made, and duly seconded, at 12:42 p.m. to adjourn the meeting to executive session pursuant to 1 M.R.S.A. §405(6)(A) for the purpose of conducting the Executive Director's annual performance review. Whereupon, it was unanimously:

VOTED: That the meeting is adjourned to executive session.

At 1:49 p.m., the executive session ended and the regular meeting reconvened.

EXECUTIVE SESSION


A motion was made, and duly seconded, at 1:49 p.m. to adjourn the meeting to executive session pursuant to 1 M.R.S.A. §405(6)(E) for discussion with legal counsel concerning legal rights and duties regarding an MSW swap agreement entered into among MRC, Fiberright/Coastal, Casella and Waste Management on or around March 30, 2018, and other contract matters. Whereupon, it was unanimously:

VOTED: That the meeting is adjourned to executive session.

At 2:48 p.m., the executive session ended and the regular meeting reconvened.

There being no further business to come before the Board, the meeting adjourned at 2:48 p.m.

Respectively submitted,



Jennifer S. Baroletti

Dated: July 25, 2019