

MUNICIPAL REVIEW COMMITTEE, INC.

BOARD OF DIRECTORS

A special meeting of the Board of Directors of Municipal Review Committee, Inc. was held on Thursday, May 31, 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, Town of Orono
Catherine Conlow, City of Bangor
Chip Reeves, Town of Bar Harbor
Karen Fussell, City of Brewer
Tony Smith, Town of Mount Desert
Kevin Howell, Town of Carmel
Ralph Saucier, Town of Millinocket
Irene Belanger, Town of China
Gary Bowman, Town of Oakland

Staff:

Greg Louder, MRC Executive Director

Consultants:

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

Guests:

Hank Lang, PERC
Gary Stacey, PERC
Shelby Wright, Fiberight

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

President Reeves convened the meeting at 10:28 a.m. and apologized for the confusion surrounding the meeting time on the agenda.

CONSIDERATION OF A WAIVER AND CONSENT AGREEMENT WITH WASTE MANAGEMENT DISPOSAL SERVICES OF MAINE

Greg Lounder reviewed the terms of the Waiver and Consent Agreement with Waste Management Disposal Services of Maine, noting that the agreement provides a limited waiver whereby Waste Management would consent to the delivery of Joining Member waste to the PERC facility during the bridge period between April 1, 2018 and the date on which the Coastal facility is commercially operational and begins accepting municipal waste, and such deliveries would not constitute a default under the Crossroads Agreement. The fee of \$30 per ton for waste diverted to PERC and would be paid by the municipalities. Board Member Sophie Wilson noted that this is a local option which would be offered to every member, and that communities can decide if processing, rather than landfilling, is worth paying \$30 more per ton. It was clarified that this \$30 is in addition to the \$20 differential between the tip fee being charge by PERC and the contracted tip fee with Coastal.

President Reeves asked for motion to approve the Waiver and Consent Agreement. There being no discussion, upon motion made and duly seconded, it was unanimously:

VOTED: That the Waiver and Consent Agreement with Waste Management Disposal Services of Maine hereby is approved in substantially the form and on substantially the terms presented to the meeting, with such further amendments as may be approved by the signing officer; and that each of the President and the Treasurer, acting singly, hereby is authorized to execute and deliver the Waiver and Consent Agreement on behalf of the MRC, his or her signature thereon to be conclusive evidence of such approval.

CONSIDERATION OF FORM OF WAIVER AND CONSENT AGREEMENT WITH MRC JOINING MEMBERS

Greg Lounder provided an overview of the terms of the Waiver and Consent Agreement between the MRC and those Joining Members electing to exercise the option to pay a \$30 per ton waiver fee and deliver waste to PERC. In exchange for the waiver fee payment, the MRC would provide a limited waiver to the Joining Member of any default under the Joinder

Agreement that otherwise would arise. Mr. Lounder noted that the proposed agreement includes an indemnification provision that would indemnify the MRC from any liability as a consequence of the Joining Member having delivered waste to PERC rather than under the existing agreement.

Mr. Lounder noted that PERC is offering a courtesy discount on the \$90 per ton tip fee rate for the next 30 days, which is effectively a reduction of \$10 per ton during that period. PERC has expressed interest in making changes to its existing agreement with the MRC which could make that \$80 per ton tip fee reduction permanent. Hank Lang, Operations Manager at PERC, reported that this interim 30 day reduction would provide time for PERC and the MRC to negotiate changes to the existing contract. Board Member Sophie Wilson noted concern regarding the amendments PERC is seeking in order to lock in the \$10 tip fee reduction. More specifically, she noted that PERC is requesting amendments to the existing agreement that would eliminate any requirement that waste delivered under the agreement be processed at PERC rather than being bypassed. She emphasized the importance of the provision in the current agreement that requires that all waste be processed and emphasized that MRC communities exercising a local option to avoid landfilling should not end up in a position in which PERC accepts diverted waste and then bypasses that waste for landfilling. President Reeves agreed that he could not support removal of that provision without knowing the end result.

President Reeves asked for the board's sense as to whether to pursue this local option and a general discussion ensued, much of it addressing the issue of whether an amendment to the existing agreement eliminating the requirement that waste delivered to PERC be processed was acceptable. There also was discussion, in response to a question from the audience, as to whether the MRC would be willing to offset against the waiver fee any differential in transportation costs

arising from delivering to PERC rather than to the Juniper Ridge Landfill under the waste swap arrangement. In response, it was noted that the MRC is not subsidizing transportation costs for other member communities.

President Reeves highlighted the MRC Board and staff's efforts over the last several years in identifying and implementing an alternative, and negotiating and securing these agreements. Based on those efforts he stated that in fairness to the majority of joining members, he would not support an agreement which offers members a way out of the agreement which has already been signed. Tony Smith concurred with this position, and affirmed that he would not support the agreement.

Following further discussion, a motion was duly made and duly seconded to approve the Waiver and Consent Agreement with Joining Members. Whereupon it was:

VOTED: That the MRC hereby is authorized to enter into a Waiver and Consent Agreement with such Joining Members who may elect to do so in substantially the form and on substantially the terms presented to the meeting, with such amendments as may be approved by the signing officer, included but not limited to, amendment of the term, and that each of the President and the Treasurer, acting singly, hereby is authorized to execute and deliver the Waiver and Consent Agreement on behalf of the MRC, and any amendments thereto, his or her signature thereon to be conclusive evidence of such approval.

The motion carried with Board Members Chip Reeves and Tony Smith voting against.

CONSIDERATION OF FOLLOW UP STEPS RELATING TO JOINDER AGREEMENT MATTERS OF NON-COMPLIANCE DESCRIBED IN AN APRIL 4, 2018 LETTER TO BLUE HILL/SURRY

Greg Louder welcomed two members of the Blue Hill/Surry selectperson body present at the meeting. Vaughn Leach from Blue Hill/Surry addressed the board, stating his position that there was a breach of understanding and trust with Fiberight and that Blue Hilly/Surry couldn't continue to send MSW to a landfill when it had the option to process the MSW at PERC, even

though it would cost more money. Mr. Leach noted that, although he understood at the time the Joinder Agreement was signed that interim landfilling was a possibility, his impression was that any interim period would be a matter of weeks and not months. Board Member Sophie Wilson noted that we are at a crossroads, because the Blue Hill/Surry breach can cause the MRC to be in breach of certain agreements. Dan McKay clarified that the agreements with Joining Members which contemplated this interim arrangement were part of a larger set of inter-related contractual arrangements. The MRC entered into the Crossroads Agreement which obligated the MRC to cause its members to deliver all MSW to Crossroads. If a joining member breaches the Joinder Agreement and the MRC takes no action, then the MRC is breaching its agreement with Waste Management. A consequence of this could be termination, resulting in no place to take the waste. Dan McKay reminded the Board that under the default provision in the Joinder Agreement, there is a 30 day cure period after a notice of default is delivered. Following further discussion, a motion was duly made and duly seconded to send a Notice of Default to Blue Hill/Surry whereupon, it was unanimously:

VOTED: That a Notice of Default in substantially the form presented to the meeting be issued to Blue Hill/Surry pursuant to the terms of the Joinder Agreement.

**DISCUSSION ON COASTAL PAYMENTS EQUIVALENT TO SITE LEASE
PAYMENTS FOR THE INTERIM PERIOD BETWEEN APRIL 1, 2018 AND THE
COMMERCIAL OPERATION DATE**

George Aronson noted that the Site Lease arguably does not require lease payments until the Commercial Operation Date, but he stated that Coastal has represented that it is willing to make payments in lieu of site lease payments. However, to do so will require money from Coastal's operating reserve accounts and cash flow from tip fees received from MRC member towns delivering to the Crossroads Landfill. Mr. Aronson has asked for draft numbers, but we

have not yet received draft language or a draft agreement, and therefore he recommended that this discussion be tabled until additional information is available.

REPORT ON INTERIM DELIVERY PERIOD ADMINISTRATION

Greg Lounder noted that the MRC has paid the first round of transportation costs for April, in the amount of \$22,575.79, which is slightly below the estimate of \$25,000. The SWAP arrangement has been in effect for a couple of months, and he noted that confidence among the parties is growing. Mr. Lounder reported that he has been afforded some flexibility and has already shifted some communities to other landfills in order to address operational burdens. Mr. Lounder noted his appreciation for the Town of Millinocket, which has taken it upon itself to become a feeder station to facilitate the interim processing.

REPORT ON FIBERIGHT/COASTAL RECYCLING AGREEMENT TEMPLATE

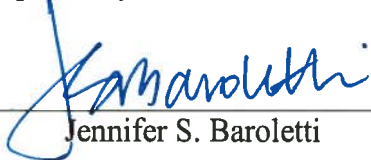
George Aronson has been interfacing with Coastal on this effort, and noted that the parties are proposing to use the EcoMaine agreement as a template and to adjust, as necessary. Coastal is honoring the price of \$35/ton for single sort, despite the deterioration of markets for certain plastics and paper. Mr. Aronson stated that drafting will start soon, and Sophie Wilson emphasized that any agreement we prepare should be flexible and recognize the realities of the new market, given the recycling market issues and that the list of allowed contaminants has been slashed. President Reeves noted that he has spoken with communities who are aware of the struggles and is glad that the MRC pursued this option to provide an alternative use for those materials. Shelby Wright noted that she is currently touring transfer stations within the MRC region and encouraged board members to inform her when they hear from communities so that she can adjust her travel schedule to accommodate.

OTHER BUSINESS

President Reeves provided a brief construction update, noting that he will be attending the monthly construction meeting in June at the site. He was on site earlier this week and the tipping floor footings and push walls were poured for some sections. Contractors ran into some ledge inside the building, so they were hammering out the footings, as well as the footing for the main conveyor on the first part of the process. Overall construction is progressing. Shelby Wright noted she took photos and will post them to Facebook. There is a site visit scheduled for June 11, 2018. President Reeves noted that a section of the roof remains open, as the pulper will need to be lowered through the roof upon delivery. The new Town Manager of Hampden starts next week, and CES has a meeting scheduled with staff to review host community communications.

There being no further business to come before the Board, the meeting adjourned at 12:17 p.m.

Respectively submitted,



Jennifer S. Baroletti

Dated: July 25, 2018