

**MINUTES OF
BOARD OF DIRECTORS OF THE
SOUTHEASTERN PUBLIC SERVICE AUTHORITY OF VIRGINIA
March 24, 2010**

A regular meeting of the Board of Directors of the Southeastern Public Service Authority (SPSA) was held at 9:30 a.m. on Wednesday, March 24, 2010 in the Regional Board Room at the Regional Building, 723 Woodlake Drive, Chesapeake, Virginia. The following members were in attendance or as noted:

Mr. Marley Woodall	(CH)	Mr. Eric Martin	(CH)
Mr. Everett Williams	(FR)	Ms. June Fleming <i>absent</i>	(FR)
Mr. Theodore Hardison	(IW)	Mr. W. Douglas Caskey	(IW)
Mr. Joseph Leafe	(NO)	Ms. Regina Williams <i>absent</i>	(NO)
Mr. G. Timothy Oksman	(PO)	Mr. Douglas Harvey	(PO)
Mr. Roy Chesson	(SH)	Mr. Michael Johnson *	(SH)
Mr. James C. Adams, II	(SU)	Ms. Selena Cuffee-Glenn	(SU)
Mr. John Barnes	(VB)		

* Indicates Late Arrival

** Indicates Early Departure

(CH) Chesapeake; (FR) Franklin; (IW) Isle of Wight; (NO) Norfolk; (PO) Portsmouth; (SH) Southampton County; (SU) Suffolk; (VB) Virginia Beach

Others present at the meeting included the following: alternate Ex-officio Board members Taylor Williams (FR), and Eric Nielsen (SU); SPSA executives Mr. Rowland (Bucky) Taylor, Executive Director and Ms. Liesl R. DeVary, Deputy Executive Director and Treasurer; Mrs. Lou Ann Ivory, Executive Assistant and Secretary; Anthony M. Thiel, General Counsel; Warren Nowlin, Special Counsel, and staff from SPSA and the Hampton Roads Planning District Commission.

The meeting began with an invocation given by Mr. Everett Williams and was followed by the Pledge of Allegiance and Roll Call. A quorum was present.

PUBLIC COMMENT PERIOD

There was one speaker for the Public Comment period, Mr. Mark Bielicki of Bi-Metal Corporation, 440 Main Street, Ridgefield, Connecticut, who was called forward to speak.

“Thank you and good morning Mr. Chairman and members of the Board. I want to thank you for this opportunity to speak with you this morning. My name is Mark Bielicki; I am President of Bi-Metal Corporation. We have had a contract with SPSA since 1988 to recycle all the ferrous metals recovered from the RDF at our facility located at the Suffolk landfill. We have been an outstanding revenue source for SPSA for over 20 years and it has been an excellent relationship for both parties based on a true win-win formula. The reason I am speaking today, our contract with SPSA runs through 2015. And until recently, we have been

left out of virtually all discussions regarding the sale of SPSA to Wheelabrator. This is despite the fact that our contract with SPSA is specifically referred to in both the body of the purchase and sale contract, and in one of the schedules. All we have been told is that we will get an amendment to our contract with SPSA, and a service agreement from Wheelabrator. But even at this late date, we haven't seen any proposals, and don't know any details. I know you expect to close on the sale to Wheelabrator May 1st, less than six weeks from now. But you are under contract to sell all ferrous metals to my company and not to Wheelabrator which would result in a breach of contract claim against SPSA, something we certainly want to avoid. So my question to you is this: How do you propose to resolve this conflict and move forward with this sale without jeopardizing my company's contractual rights and the resulting complications that will ensue. Thank you very much."

1. INFORMAL ITEMS: DISCUSSION ONLY

A. UPDATE ON LANDFILL ODOR ISSUE

Chairman Leafé called upon Mr. Taylor to give an update on the landfill odor issue. He said SPSA has submitted a letter to DEQ. Our response to their warning letter was received by them by the 15th of March. Conversation that Scott Whitehurst, Superintendent at the Landfill, has had with DEQ indicated that the proposal and the additions that have been made to the odor control plan for the landfill has been received and DEQ feels like it is right in order with what they feel needs to be done at the landfill. Mr. Whitehurst said the indication he had from Troy Breathwaite who is the air enforcement officer that we are working with at DEQ has indicated what SPSA had submitted in its response letters does seem to be in line with what they are looking for. I think they were looking for clarification as far as time lines go and in fact, especially in regard to the bulk hookups to the leachate system which have been made over a month ago. He was unaware they had taken place even though we had communicated that with our waste inspector. The record has been set straight with them. They seem to be pleased with what we proposed and we are going to continue on with what we had submitted in the plan. Mr. Taylor said SPSA did send letters out on March 11th to over a thousand residents of the Nansemond Parkway area. There have also been some newspaper articles and some television coverage. We also sent out a press release to the newspapers and television stations. A hot line number was established and we have a cell phone (beginning on Friday, March 12th) to specifically have individuals from the landfill actually assigned to nights, seven days a week when they would be responsible for taking the calls and responding to the particular calls and writing down pertinent information. They are also to ensure that they leave a door hanger at the address of the person who called. That has continued since that date and we anticipate continuing that until such time as the study comes back from SCS that they are performing for us now and that will likely be around the first part of April. We have also continued to utilize the small working face and continued having dirt available to be able to spread on the working face area in a timely manner. One thing that Scott has already mentioned, the temporary horizontal gas collection system, was reported at the last time was pulling about 400 CFM's is now pulling about 800 CFM's. SPSA is still getting calls. There are numerous times when we were getting calls that many of the calls were based on smoke and other different items. Some people feel like it smells sometimes like sewer, like glue, like smoke, chemical odor, gas odor and other things

We did find out we had one issue with a particular pipe that wasn't occurring all the time but we decided to go ahead and I authorized a "candy cane" flare. We will install a fan to try and pull some of the gas out of the line and actually flare it off. Mr. Whitehurst said it is one of our gravity leachate lines that serves the closed portion of the landfills, Cells I-IV located on the west side of landfill. It is a gravity line. Up until sometime last week we had been checking it to see if we did note any gas that was being emitted from that candy cane. It is designed to relieve the pressure that's in that manhole structure and we had not noticed any gas emitting from the candy cane until sometime last week. We had three days in a row where we did have combustible gas that was emitted. The last two days we have not seen any gas coming from it but we decided to move forward with putting in a device that will work on a timed system and if there is gas present there is an igniter built in and it will ignite automatically and will flare the gas off. If there is no gas present obviously it is not going to produce a flare at that station.

Mr. Adams (SU) said he had a couple of questions. Number one to you, Scott, are you seeing a noticeable difference in the smell there? Mr. Whitehurst replied that the odor we noticed at the landfill throughout the day, but the odor there at the landfill it is still the same odors that we always noticed over the years, trash odor, occasionally we will note a gas odor here and there, but the odors at the landfill in my opinion have not changed. Mr. Adams then said you have got 400-800 CFM's, we are just flashing this off? Why are we not working and selling the gas to the people for the power to the energy plant. Mr. Taylor replied that right now we do not have a contract for that and Mr. Adams asked why not. Mr. Taylor said because Cell VI isn't that old and is not required to have a system to withdraw gas until five years after you started putting the waste in there which is approximately two years from now. Now, we do have as part of the agenda the landfill gas process that we are going through with the PPEA process. We talked about new wells with the company yesterday. Mr. Steve Laliberty with Suffolk Energy Partners said the plan would be to actually put in 26 wells. Some of these wells we consider sacrificial and that we are putting wells in strictly for the odor concerns. Because of the concerns at the landfill, we have gone and connected to those cleanouts. We continue to increase the flow on those cleanouts and balance and tune those cleanouts but we will put in 26 wells, 9 of which will be permanent wells that will have a permanent system connected. It should be noted though we still do surface emission monitoring and as Scott indicated with the odors of the landfill we are not seeing the gas on the surface of the landfill. So when we do a sweep which is a grid that is set for us, we are not getting hits or we are not having gas escape into the atmosphere that we see immediately at the landfill.

Mr. Adams asked if we pass on the extension today do we go ahead and move forward with that project. Mr. Taylor said I don't believe that process allows us to start today. There is a PPEA process that requires a public hearing and you cannot take action until 30 days after the public hearing so you are talking probably in the May time frame possibly late April.

Mr. Augustine said that's why we went in and installed the temporary piping to pull off those cleanouts. As soon the contract is awarded we spoke at the last meeting we have already talked to the consultants, third parties that drill the wells and such and they are available in the two week time frame.

Mr. Laliberty said once the gas rights to Cell VI are awarded it is part of the cogen facility slated to be built at BASF Facility. So the additional gas will be put fourth through the pipe line and the cogen facility is built there. Chairman Leafe said we will have a little bit more on that in the closed session.

Mr. Adams asked what the \$40,000 we spent for SCS was going to tell us. I mean that's a fair amount of money. I mean we know what's going on. What are they going to tell us. Mr. Taylor said they are going to tell us whether it is actually coming from the landfill or are there other constituents that may be there also. Bob Gardener, with SCS, is here in case any questions arose regarding his work.

Mr. Gardner said the question that has been asked, there has been dispute, there has been concern there are other constituents and sources of odors at the landfill and so one of the questions we were asked to do is can we 'discern' through measurement of the air what the source of the odors are and what the quality of those odors are. So we have conducted, we have been out in the field last week doing our sampling during the evening and in the early mornings and we are out there this week as well doing some additional sampling associated with the various neighborhoods depending on where the wind is blowing and testing those for a variety of compounds in order to begin to match what you expect from a landfill and what you are observing in the neighborhoods.

Mr. Adams said why don't we clean up our problem rather than spending \$40,000 to tell us if it is ours or somebody else's. We know we have a problem; why don't we focus on that and get it done. Mr. Gardner said there are also two other elements; there is the health and safety issue, so the question that has been asked with regards to the concentration of various constituents in the air have they risen to just a nuisance level or beyond a nuisance level. So the testing we do helps to answer that question and the concern of the neighboring communities and the steps SPSA has already undertaken are relatively common in the industry with respect to going after and controlling the size of the working face and installing additional gas collection systems in order to control the gasses that are emitted. So you already are taking significant steps. Mr. Adams said DEQ made it pretty clear we have a problem, right? Mr. Gardner said DEQ's opinion was that the landfill is the source of the odors. Ms. Cuffee-Glenn (SU) then said, so we are disputing DEQ, or what? Mr. Gardner said there is no dispute at this juncture. The issue we have been taxed with is to verify the constituents and compounds in the air and whether those can be tied to landfill. Ms. Cuffee-Glenn said and then a report will go back to DEQ or just come to us. Mr. Gardner said a report will go to SPSA as well as the DEQ.

Mr. Hardison (IW) said at the last meeting in February I commented after seeing the ladies crying in the hallway or in the podium up here a very important question that I haven't heard addressed this morning. And my comment was we need to determine first of all, if there is a health issue, environmental health issue to the citizens there and I haven't heard 'health' mentioned this morning so my question is have we determined, when are we going to determine if there is a health issue to the citizens. Chairman Leafe said that's part of the study, is that not? Mr. Gardner said yes, it is. Mr. Hardison asked where is it on the priority list? I heard a lot of things but it looks to me like the paramount things would be the health to the citizens and Mr. Woodall made a great point there, we are subject to lawsuits whether

good or not. I would just like to know where we are on that particular portion. Mr. Gardner said we are in the process of taking samples, we took samples last week and we have taken samples this week, Wednesday through Friday to identify various constituents associated with the air that could potentially be a health issue and once we get the results we will compare them against the various standard associated with those particular constituents to see whether they are a health hazard because there is a difference between a 'nuisance' and an 'environmental health hazard' and we will make that judgment based upon the actual results of the samplings. And what's interesting about this particular area which is not uncommon with landfills is because the dispersion of odors is a function of the meteorological conditions we are somewhat at the whims of nature. We have literally been out there in the field in the evenings, the early mornings, we have been out there our guys have cell phones and get calls from the hot line and we go out and try to discern. They will say when we are out in the field well it was here a second ago and when you showed up it disappeared and we understand that that's just the nature of the movement of air molecules but we are trying to be responsive and take samples. We have encountered places where there are odors; they are landfill odors that we have discerned and we've taken samples from those and then when we test those we will compare them against standards. Mr. Hardison said when do we expect an answer to that specific question and Mr. Gardner said they are in the process this week of finishing up our samplings, it will take a week or so to get the sampling results and then we probably have another week or so to evaluate and compile those results so probably two to three weeks and we'll have a report. Mr. Taylor said he had one thing he wanted to add. The Suffolk Fire Department has been out to calls numerous times and have taken samples each time they have been there and it has never been in an area where it was a health hazard. I know the last time I talked to them it was nine times or fourteen times they had been out on different occasions and it has never risen to the level where it is considered a health hazard. Mr. Hardison asked if we were advertising that to the public. Ms. Cuffee-Glenn said she thinks we convey to the public in meetings that based upon their analysis that it didn't rise to that level but the smells still were coming from SPSA so that was conveyed to the community during the public meetings.

Mr. Everett Williams said after I got the hard copy of the minutes from last meeting I went through and read with quite some interest and recall the quoted comments in the minutes. The five people in Suffolk who came and made comments at our February 24th meeting and while the public relations job that we have done is admirable and I like it, the thought occurred to me that perhaps that we should find a way to address or send in letters or some way to go back to those five individual people beyond the blanket letter that we have already sent. Maybe now is not the time, maybe we need more results. But it seems to me like they took their time to come and express their concern to the group and based on the comments of some it seems appropriate to me that we should go back to them individually in some way.

Mr. Barnes said the landfill has been there a long time and there is some amount of odor that is related to the landfill and clearly what's happened recently is something different than all of that. There haven't been indications or some additional odors noticed at the landfill that would correlate to the period of time that we are talking about? Because something's changed, something is different and I am just curious about that part. Mr. Whitehurst said he has been working at the landfill for a little over eight months and the odors that we experience at the landfill have not changed since I have been at the landfill. I have been with SPSA for

over two years and it is the same odors that we have always encountered at the landfill when I was strictly doing the environmental work for SPSA. Mr. Barnes said then I guess the second question this would be to the contractor, I am assuming this is the case, it will also include some type of an action plan that says these are the steps that need to be taken to ensure that you are operating in the best way that you can. Mr. Taylor confirmed that was correct. Mr. Barnes said the last issue is just a comment and that's to second what Bob [Gardner] said in terms of the way that stuff moves around, we experienced that at the Virginia Beach landfill when the compost operation was there, you could stand basically next to the compost where the odor is moving off and really not notice it significantly but if it hit the right barometric pressure it would move sideways and there would be a pretty significant odor and so it is possible to be on-site and not really be able to detect the odors the way that something off-site can detect that. That was the experience we had. Thank you.

Chairman Leafe said this issue will remain at the top of our priority list. It seems to me that we are doing the right thing and probably getting a good handle on it and to respond to the community as well as meeting our obligations. It does seem like the gas is a significant item, and the sooner we can get that fully under control probably the better we will be under any circumstances.

B. CORRESPONDENCE TO DEQ ON CELL VII-SUFFOLK REGIONAL LANDFILL

Chairman Leafe said that at the last meeting the Board had authorized the Chairman to write to DEQ concerning Part B of the Cell VII permit. Prior to doing that and to making sure that I was appropriately up to speed in writing the right things to DEQ, I had the opportunity to talk with our consultants, HDR, Doug DeCesare, as to what was happening with DEQ and as often the case, circumstances have moved along since our meeting and in fact things were and have happened with DEQ as it relates to the permit, the series of events. It wasn't quite as bad, wasn't nearly as bad as it might have appeared that we had filed Part B back in the summer of 2008 and we are sitting without response. So, there is a meeting tomorrow with DEQ. DEQ has represented to me and is also anxious to move forward with completing the permit process. There is a ground water monitoring concern that still needs to be addressed that will be the subject of tomorrow's meeting but what is going on and expecting a more comprehensive report if not I guess might be too much to hope for before our next meeting, that I did not send a letter but I give you this report in terms of the activities that are going on. I think we have some reason to be optimistic as it relates to the process.

At this point in the meeting Chairman Leafe asked if we could return a little bit to the item of the BiMetals item that was addressed. Mr. Taylor said we have had considerable discussion between Wheelabrator and SPSA regarding the particular project and I know Wheelabrator has had a couple of opportunities to meet with Bi-Metals. We have in the past also met probably no more than a couple of times or so. But we have been working on the particular contracts trying to see how we can actually break the contract apart because like Mr. Biliiecki said there had been one contract but now SPSA won't have anything specifically to do with the power plant and Wheelabrator won't have anything to do with what's out of the system out at the landfill. So what we are trying to do is continue to work on those agreements. We have had conference calls this week with the attorney from Willcox and Savage, Jeff Breezer, who is working with us on the contract and through a conference call

we had with Wheelabrator Monday or Tuesday that they are anticipating having a rough draft or hopefully a final rough draft of the contract to discuss on Friday. Mr. Mark Schwartz with Wheelabrator said SPSA should expect a draft from their legal today or tomorrow.

Chairman Leafe said all the people who are players in that are in the room and speaking for one member of the Board and probably for the Board in general we don't want to get down to closing time and end up with somebody raising some flag about a contract that needs to be addressed and we have time length and I am not suggesting that you are not addressing it but however it needs to be addressed, it needs to be brought to closure and however we need to do that.

Mr. Schwartz said we are under contract to 2015, after the sale, to truck the ferrous material from the RDF facility to your facility located at the Suffolk landfill. There is language that will be coming out today or tomorrow regarding our responsibility to you to do that and that's what's coming your way.

Mr. Hardison asked if we have a potential dollar figure for the amount of conflict. Mr. Taylor said he did not believe there is a conflict as far as dollar figures are concerned. The conflict is who does what and how do they do it and go about it. We are not specifically directed what that dollar figure is as much as the process of being able to get all the parts of the contract to work. Mr. Hardison said he was just wondering if we were talking about one million dollars or \$15 million or chump change. Mr. Taylor said probably about half a million for SPSA's part. Mr. Tony Thiel, General Counsel said he didn't think it is fair to comment on the dollar value of this contract at this point. There is a contract in existence. SPSA recognizes that. The reason it is complicated is because Mr. Bileiecki's facility is located at the landfill and the materials are delivered from the waste to energy plant that Wheelabrator is buying and so in essence that contract has to be cut in half so that Mr. Bileiecki ends up with his contract regarding his rights to the product and Mr. Bileiecki has the right, the continuing right to continue to operate his facility at the Suffolk landfill. So it is complicated and we have been working on it many months. Our firm has been in touch with Mr. Bileiecki for many months; this goes back to at least last fall and I understand his frustration because it is somewhat complicated but there are three parties involved and we are working on it and recognize the need to resolve this matter as soon as possible and as much in advance of the closing of this deal as possible. It is one of those things that has to be done. Chairman Leafe said let's just make sure it gets done and that we focus our attention on it in the way that it needs to and if there is anything the Board can do to be helpful in that process we know you will let us know.

2. ACTION AGENDA:

A. MINUTES OF THE BOARD MEETING(S)

Chairman Leafe said our first item is on the approval of the minutes of the previous meetings of February 8th and 24th. They were distributed with the agenda. There were no questions on the minutes and a motion to approve them as presented was made by Mr. Woodall (CH) and seconded by Mr. Oksman (PO). All present voting yes; opposed, none; motion carried by a unanimous and recorded vote.

B. UPDATE ON WTE SALE AND APPROVAL OF ASSOCIATED FINANCIAL AGREEMENTS

Chairman Leafé called for the next item, the update on the sale of the waste to energy. Mr. Warren Nowlin (Williams Mullen) and Mr. Frank Robinson (Sidley Austin) are both here as it relates to the various documents, it looks like Mr. Robinson your documents are the ones that are at the beginning so we will let you begin with that.

Mr. Robinson said he believes that a picture is worth a thousand words (and began his PowerPoint presentation which is attached as Appendix A) and that what's on the screen behind you is basically the current structure of the bond resolutions. At the moment you see on the left-hand side and it has been this way since July 1, 1999 when you took ownership of the power plant. You accounted for the revenues and expenses of the power plant independent of the disposal system on the right which includes the RDF plant. Effectively the sale obviously there will be a dramatic change in terms of what this structure looks like. Basically everything you saw about the power plant system on the left in the first diagram including the sale of RDF within the company from the disposal system to the power plant system with resulted revenue coming to the disposal system ends. So moving forward then in terms of what we have got, we have all your revenues are basically paid in once a month to a trustee which then sets aside money for your operating expenses. The first level of debt you have is your Senior Debt which at the moment is approximately \$66 million and change. Following the sale our estimate in terms of how we expect to apply the sale proceeds, that amount will drop to \$30,710,000. That debt is insured by Ambac which is one of the major creditors from whom we need a consent for the transaction. It is owned by Wachovia, \$12 million and change, and there is also VRDO, a variable rate demand issue which has the benefit of a Wachovia letter of credit. They are your Senior creditors. There is a reserve account and then you come to the subordinate obligations account. In this slide you see on the left-hand side two amounts, the sum of the first two totals is \$61 million and almost \$72 million. That's the \$143 million that we currently owe VRA. It is represented by Senior Subordinated Debt at the second tier, that's the top bucket and by the issue that we worked on together in May and June of last year, when VRA refinanced debt for us and bought us some breathing room by restructuring debt. You will see on the right-hand side that if everything goes accounting to Hoyle, after the closing and the application of the \$150 million we will have brought our obligations down to VRA to closer to \$47 million. Then on the right hand side, the guarantee agreement which I will come back to which is the commitment of all 8 members which was the linchpin that makes all this possible. The next bucket down on the left-hand side, you have authorized at the moment a line of credit with Wachovia for up to \$17.2 million. The expectation is that that is going to be canceled and so going forward you will have a zero on that side and will not be paying availability fees. Finally, you have at the fifth tier you have your obligation to Virginia Beach which currently is just under \$19 million and again part of the plan and structure is that we will pay that off so that following the application of \$150 million there will be no obligation to Virginia Beach. That would have been paid off.

Today for your consideration we are presenting three resolutions and a number of agreements. The guarantee agreement you see on the right; it extends to all of the debt that VRA will own

post-closing. That is it will include the Senior Subordinated Debt and the Guaranteed Subordinated Debt.

The guarantee agreements have been signed off by the CAO's and CLO's of the communities. It has been signed off on VRA and is submitted to you today for approval. The second principal agreement that will come to you will be a reimbursement agreement. That is going to be your obligation to reimburse the communities in the event the guarantee is hit. The reason we broke the guarantee agreement away from the existing guarantee agreement that backs VRA debt is to make sure that VRA in effect is not involved in the terms of that arrangement. So it is strictly the members and SPSA going forward. Beside that agreement, there are then three resolutions that will come to you. The amendments of the Senior Bond Resolution are purely technical. In there you have obligations to maintain the Navy contract and enforce it. You have obligations with respect to maintenance of the RDF facility and with the sale of these facilities to Wheelabrator we need to exclude those from various definitions within the agreement within that Resolution. The changes to the Senior Subordinated Resolution which is the second Supplemental Resolution I'll ask you to consider are the same technical changes plus the addition of the guarantee that you see up there on the right. We make provisions for the obligation of any guarantee payments in the event SPSA's revenues are inadequate. Similarly with the Guaranteed Subordinated Resolution, the third tier instrument up there, again all that debt is to VRA and we will be substituting the new guarantee from all eight members for the existing guarantee which will with released, the guarantee from the five members. Again, down at the Wachovia level there will be a release of the guarantee from Norfolk and Chesapeake and finally as a result of retiring our obligations to Virginia Beach the Junior Subordinated Note we issued will be canceled and the forbearance agreement will be rescinded. The other agreements before you today are an inter-creditor agreement which is basically the division of the spoils. That's the agreement among all the creditors how the \$150 million will be applied. Your deal with Ambac and VRA essentially is that you hold them to the same percentage debt after the application of the \$150 million that they have now. Ambac ensures roughly 15% of your aggregate debt; VRA holds roughly 61% of your aggregate debt. Once we apply the \$150 million those same percentages will obtain and they will relate to the numbers you see in green up there.

VRA's executive director has approved this; Wachovia has approved it, Ambac has approved it and U. S. Bank and all their counsel have signed off on that. There is also an escrow agreement you have. Any of you who have ever done a refunding and not been able to apply your proceeds at closing to the immediate retirement of your debt you know you need to set up an escrow with the trustee and escrow agent to hold those funds pending application. The agreement you have with you today is just a shell. But it is sufficient for you to approve and substantially to get us through that. Mr. Robinson then said there are a number of motions to be presented that I ask the board to consider.

Chairman Leafe said the documents were on the web site and they have also been available here. They are technical, more technical than most of us are used to looking at in this arena. Mr. Hardison said I see this picture here which projects a great picture; what I don't see and my question is when will we see it, why are our expected assets at this point in time; what our estimated assets are at this point in time. Chairman Leafe said after this is done and Mr. Hardison said yes; are we sitting here with \$100 million worth of good stuff or are we at

ground zero, there has got to be some value somewhere. Ms. DeVary said we only maintain the book value of the assets. The acquisition cost less, the depreciation and I believe following the sale the assets, the net book value is around \$70 million. Mr. Hardison said so we should be worth \$70 million in 2018 and Chairman Leafe said at least. Ms. DeVary also said at least because that's your book value. That's not necessarily a market value of it. Mr. Hardison said the reason this is important, the localities are going to be looking in the next two to four years at where they want to go in 2018 and that's why I think it is pretty important. Chairman Leafe said just as an overview we know that we own or have a leasehold interest in a number of transfer facilities that have value. We own four of them. We have a landfill that the estimate presented at the last meeting, which was minimally maybe \$50, \$60 million dollars, minimally assuming the development of Cell VII if that happens. We have an interest in a regional office building. We have a recycling facility with substantial value so there are a number of assets that SPSA will continue to have following this transaction.

Mr. Chesson (SH) said the first tier, again to be clear, that remaining \$30.7 million, that's all with Ambec. Mr. Robinson said no, it is actually a mix of Wachovia and Ambec. At the moment there is \$66 million is comprised of three different obligations; one is the residue of 1998 bonds which are insured by Ambac. There is a \$12.1 million piece owned directly by Wachovia. Current plan is to retire that and the third piece which is lowest cost debt is \$20 some million of variable rate demand obligations. We pay a letter of credit fee on top of that so our total overall costs would be look at remarketing a little bit above that but it's our lowest cost debt. We are paying some of that down just to make maintain a level of debt service. It is one of the commitments we made to VRA in terms of how we would restructure the debt. So the two remaining creditors will be Ambec and Wachovia at that level. Mr. Chesson replied and you said that would be about 15% percent of the remaining? Mr. Robinson said Ambac's debt piece of it will be 15% of the overall, that's about where they are now. We will hold them constant. VRA is about 61% of the overall debt. That's the next slide, the \$47 million.

Ms. DeVary said also in the budget document page 108, I have summarized there how the currently as it stands right now what we propose would be the residual following that and VRA would be at 59%, Ambec at 16% and Wachovia at 25% and that's just based on the total debt service that's due to them. Mr. Robinson said the big charge in terms of debtors is Wachovia which agreed to resume the percentage attributable to Virginia Beach's almost \$19 million and so a percentage they have with regard to them actually goes up. Ms. DeVary said it goes up minimally because we are removing the \$17.2 million line of credit and in a sense replacing it with the Virginia Beach amount so the total exposure has only increased minimally.

Chairman Leafe then said the Board appreciated all of their efforts on this transaction. He then called for the Secretary, Lou Ann Ivory to read each of the motions individually as they need to be voted on individually. You read it, what we are voting on and then we will have a motion and second and we will vote.

Mrs. Ivory: First motion, approval of motions to adopt three Resolutions amending SPSA Senior Bond Resolution with consent of Ambac Assurance Corporation, Wachovia Bank, National Bank, Virginia Resources Authority and the Trustee, U. S. Bank and National

Association. Mr. Woodall (CH) made this motion and it was seconded by Mr. Oksman (PO). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

Mrs. Ivory (#2): Approval of motion to adopt three resolutions amending SPSA's Senior Subordinated Bond Resolution with consent of Virginia Resources Authority, Wachovia Bank, National Association, and the trustee U. S. Bank National Association. Mr. Woodall made this motion which was seconded by Mr. Johnson (SH). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

Mrs. Ivory (#3): Approval of motion to adopt three resolutions amending SPSA's Guaranteed Subordinated Bond Resolution with consent of Virginia Resources Authority and the Trustee U. S. Bank National Association. This motion was made by Mr. Woodall (CH) and seconded by Mr. Johnson (SH). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

Mrs. Ivory (#4): Approval of motion to approve the form of a Guaranty Agreement for the benefit of Virginia Resources Authority by SPSA's eight members to U. S. Bank National Association in its capacities as Trustee under SPSA's Senior Subordinated Bond Resolution and Guaranteed Subordinated Bond Resolution. This motion was made by Mr. Woodall (CH) and seconded by Mr. Johnson (SH). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

Mrs. Ivory (#5): Approval of motion to approve the form of a reimbursement agreement between SPSA and its eight members. This motion was made by Mr. Woodall (CH) and seconded by Mr. Chesson (SH). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

Mrs. Ivory (#6): Approval of motion to approve amendments to 2009 financing agreement with Virginia Resources Authority. This motion was made by Mr. Woodall (CH) and seconded by Mr. Chesson (SH). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

Mrs. Ivory (#7): Approval of motion to approve the form of inter-creditor agreement with Ambac Assurance Corporation, Wachovia Bank, National Association, Virginia Resources Authority and U. S. Bank National Association in its capacities as Trustees under each of SPSA's three bond resolutions. Mr. Woodall (CH) made this motion and it was seconded by Mr. Chesson (SH). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

Mrs. Ivory (8): Approval of motion to approve the form of an escrow agreement with U. S. Bank, National Association in its capacity as escrow agent to provide for the custody investment and application of the cash proceeds of the sale of the WTE facilities and authorize staff and consultants to undertake to purchase Virginia Resources Authority and SPSA's bonds if and to the extent staff determines it cost effective. This motion was made by Mr. Oksman (PO) and seconded by Mr. Hardison (IW). Mr. Everett Williams (FR) asked on that one authorizes staff and consultants to do this approval, shouldn't the Board be

represented in some way in parts of that to include the chairman of the Board or something as part of that approval process rather than blanket approval where the Board is not involved. Mr. Robinson replied that is of course the Board's decision. Mr. Williams again read the portion, 'and authorize staff and consultants to undertake the purchase of Virginia Resource Authority and SPSA's bonds if and to the extent staff determines it is cost effective.' He also said that's fine but somebody or something from the Board ought to be a part of that process I would think. Mr. Robinson said he had no problems if the Board wants to do that. When we close, after the closing we will have cash and investment securities. We have some issues with some of the debt out there that is not callable. We want to try to make an effort to see if we can buy it for less than what it would cost us to quote "defease it", which would mean to buy investments that would have a lower yield than the interest expense on that debt. If we can buy any of it in and save money it is strictly a mathematical exercise. If you would like the Board to be involved in that, absolutely no problem but it is strictly an arithmetic exercise lead by your financial advisor with staff and others following along. Ms. DeVary said it is the tender program that we have mentioned. Mr. Williams said you have heavy-duty decisions to make. Ms. DeVary said it is going to be exactly what Mr. Robinson said; it's going to be mathematical which is the better route, to go ahead and 'defease' the bond or go ahead and try and 'tender it and purchase it'. So it is strictly mathematical. Chairman Leafe asked Mr. Williams if with that explanation he was comfortable enough with it and Mr. Williams said he would rather have the Chairman participate in the decision.

Mr. Oksman (PO) asked if this decision would be revised so that it requires Board approval, the decision could not be made until we have a scheduled Board meeting and I would just like an honest answer on whether that could possibly create a problem for us, that is if you have a financial opportunity this week it might disappear two or three week from now and I would like to hear your comments on that. Ms. DeVary said yes, it would. We need to give our financial advisor the leeway to transact this for us; this is why we hired them to do so for us. To have to wait for a Board meeting to get approval on which series of bonds and maturities that we should tender or defease would be troublesome. We know the ultimate goal is to do it the most cost effectively. And we will report back to the Board with the final result certainly. Mr. Woodall (CH) asked who is the 'we' and Ms. DeVary replied it is me, the financial consultant, Mesirow Financial. Mr. Woodall then said anyone else. Ms. DeVary said Mr. Taylor. Mr. Taylor said and Frank [Robinson] reviews them but it is primarily Mesirow. Mr. Woodall said so the financial consultant is actually going to make a recommendation to you and Ms. DeVary said that's correct. Chairman Leafe said obviously he does not have any problem with being in the loop as a representative of the Board, but it does seem to me that with this process and the mathematical nature of it and with our own financial consultants and attorneys and staff making that decision that it is safe enough. Mr. Oksman asked would staff be comfortable with a minor amendment to this simply saying the effect would be staff and consultants would be authorized to undertake this purchase after consultation with the Chairman. Ms. DeVary, Mr. Taylor and Chairman Leafe all replied that that would be fine. Mr. Williams said perfect.

Chairman Leafe then asked if there was a motion to amend the original motion, item #8 as previously stated. Mr. Oksman restated his amendment to the Item #8 motion to include the words that the staff and consultants, adding that to the effect that legal counsel can draw up the exact language to implement the intent of this motion but the intent is that 'staff and

consultants would be authorized to undertake the purchase which is cited in Item #8 after consultation with the Chairman.' Mr. Tony Thiel, General Counsel, said it is inclusion of the words 'after the consultation with the Chairman'; that's the motion. The motion was seconded by Mr. Chesson (IW). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

Chairman Leafe then said the motion needed next was to approve the original motion of Item #8 as amended. Mr. Williams (FR) made such a motion and it was seconded by Mr. Hardison (IW). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

Mr. Hardison said using the word 'consultation' means primarily discussing it with you. I would assume unless you object to it that you are approving it. Chairman Leafe said that's the way that he would interpret it; that they will have a recommendation why and unless there is an objection or need for it to be further considered by the Board or altered, then it will be approved and we can make a record of that.

Mrs. Ivory (#9): Approval of a motion to obtain release from Virginia Resources Authority of 2009 guaranty agreement in consideration of SPSA and its members delivery of the 2010 guaranty agreement. Mr. Woodall (CH) made this motion and it was seconded by Mr. Barnes (VB). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

Mrs. Ivory (#10): Approval of a motion to terminate the line of credit with Wachovia Bank, National Association and obtain release from the bank of the 2009 guaranty agreement by and release of SPSA's repayment agreements with Norfolk and Chesapeake. This motion was made by Mr. Martin (CH) and seconded by Mr. Woodall (CH). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

Mrs. Ivory (#11): Approval of a motion to repay the balance owing under Forbearance agreement with Virginia Beach and obtain termination and release of the Forbearance Agreement with and cancellation of SPSA's Junior Subordinated Revenue Note to Virginia Beach. Mr. Johnson (SH) made this motion and it was seconded by Mr. Stein (NO). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

Mrs. Ivory (Item #12): Approval of a motion to authorize the executive director, treasurer and counsel to carry out actions so authorized. This motion was made by Mr. Hardison (IW) and seconded by Mr. Stein (NO). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

Mrs. Ivory (Item #13): Approval of a motion to authorize counsel to restate the three bond resolutions and present them to the Board for adoption following the closing of the sale of the WTE facilities. Chairman Leafe asked Mr. Robinson to address this item briefly as to what that requires. It is coming back to the Board. Mr. Robinson said if we don't restate these

resolutions for those of you that have to live with them and interpret them, for example, with the Senior Resolution you will have the resolution adopted in 1984 and last restated in 2007. You have a Supplemental Resolution that amends certain provisions adopted in May and now you have another Supplemental Resolution that you just approved today. This is simply a scrupulous thing to put them together so you have one resolution you can read without having to refer to the Supplemental Resolutions. I would urge you in your own self interest to approve that resolution.

Mr. Oksman asked do we have any need to do a bond validation procedure here. Mr. Robinson said we are not issuing any bonds so the answer is no. Mr. Woodall made a motion to approve Item #13 as read and it was seconded by Mr. Stein (NO). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

Chairman Leafe said that should complete the list of items related to the financial pieces. Mr. Taylor said that on Monday and Tuesday we will be attending the VRA meeting at which most of these will be considered.

At this point, Chairman Leafe said before we get to the financial matters, I would like to call on Warren Nowlin to tell us where we are. Mr. Nowlin said he was going to give just a brief update. You received yesterday by e-mail from our office an updated closing checklist. You will notice in that although it is not a black line you will notice we have made lot of progress on a lot of items but we still have a number of material items that remain outstanding. I will give you a quick summary: the private activity bond volume cap allocation application is with Governor McDonnell. We are anticipating his action very soon. The delay is creating some very significant pressure on our closing deadline specifically with respect to the activities of Mr. Robinson and Sidley Austin in negotiating the IRS closing agreement. So no further action can be taken that has not already been taken by Sidley until we have that action by the Governor which we are hopeful will be very soon. Mr. Everett Williams asked wasn't that same report a month ago and Mr. Nowlin said a month ago the report was similar but during that period if any of you-all understand what happens when something gets to the Governor's office or goes from various state authorities, it has moved from between a half dozen to a dozen desks between now and then. So we have actually made progress but on its face it doesn't look like it. There has been no formal action. Mr. Robinson has given you a good up date on the lender consents and we do anticipate action next Monday and Tuesday, final action for next Tuesday by the Virginia Resources Authority and the consents by the other lenders have been lined up. They are altogether because they are all part of inter-creditor agreement so we do anticipate next week to have completed that item, barring any unforeseen development.

With respect to the Department of the Navy, we have actually made good progress with respect to the easements and revised easements went out yesterday. We will look for final action from the Navy on the easements. We are still waiting on the revised steam agreement from the Navy. We have been in touch with the Navy indeed through the Chairman and have been, again, reassured that we are doing everything we can there. In terms of the Portsmouth Lease and Good Neighbor Agreements, there are two of them. The Portsmouth Lease and Good Neighbor Agreement, there is a structural change that is being worked through with Portsmouth. I would anticipate in the next week, Mr. Oksman, we will have those documents

hopefully restructured and this has to do with the way the fee interest is going to work. Mr. Oksman (PO) said for the benefit of the Board members, all we need to do is figure out how to dot a couple of I.s and cross a couple of T's and those documents are scheduled to be presented to Portsmouth City Council at its regularly scheduled meeting on April 13 and I don't anticipate any problems. Mr. Nowlin said nor do we. Mr. Thiel, likewise on the SPSA agreement. Mr. Thiel, General Counsel, said that's correct.

Mr. Nowlin said Item #6, there was a meeting last week with the DEQ in Virginia Beach on the carbon monoxide control measures. The meeting did not produce the results I think were hoped for by Wheelabrator but the contract is clear with respect to SPSA's obligations so we have discussed with Wheelabrator's counsel a tweaking in the addendum that we all anticipate to deal with this contingency but as I said the contract is clear so we can go to closing and plead it the way we have it. But we will address it in this addendum which I will mention in a minute. With respect to the regulatory consents and permit transfers, the revised O & M agreement was circulated this morning. We expect to meet with Wheelabrator counsel next week to try and work through any open items on the O & M agreement. But that addresses a number of items that relate to the separation of the property and the continuing ownership of the truck maintenance facility by SPSA but that has progressed. Other permits, nothing to report. All of SPSA's obligations have been completed and Wheelabrator has worked through its applications timely. Likewise #8, if you look at your closing checklist you will see a lot of progress on the executory contracts and item #9, the phase two environmental assessment, the actual work is commencing today. So that has been signed and the work is commencing. And then the last item that is not on the list here is this addendum that I mentioned to you. It is normal in the course of a pre-closing period for issues to arise that need to be refined and clarified or conformed and we have a meeting next week to do so. Mr. Nowlin then asked if there were any questions. Mr. Hardison (IW) asked if we are going to close on May 1st. Mr. Nowlin said it will be very, very tight principally because of the normal time frame for negotiating a closing agreement with the Internal Revenue Service. I met with Mr. Robinson this morning; we may have further discussion of this in closed session. It is not impossible at this point but we will need action by the Governor in the next day or so for there to be any hope for us to close on May 1. And it will still be very, very tight even with that.

Mr. Hardison had one follow-up question. To keep this unit another month do we have a projected expense for that; any idea what it is going to cost to keep it an extra month Mr. Taylor said not really; we haven't looked at that. We can find out. Mr. Hardison said the reason he asked that is if you look at the losses claimed last year we may be talking millions of dollars, maybe ten. Mr. Hardison said he just thought it would be good information to know to help put the fire under the people that we owe money to and the Governor also. Mr. Nowlin said the linchpin, I am confident, reasonably confident, that we will complete all of the other closing conditions prior to May 1. And there are still a number of them outstanding. We have got about five weeks left. But the key is the volume cap and then the action by the Internal Revenue Service and those are beyond our control. We are doing everything we can and Mr. Robinson has gone as far as he can go with the IRS at this stage. Mr. Hardison said he understood that but he thought particularly with the economy now when the Governor hears if his people don't move this will cost us \$15 million or \$10 million; dollars talk. Ms. DeVary said with regard to what it costs, if you look at the financial report, the WTE system, the monthly expenses run in the neighborhood of \$2- \$2.5 million. And when we would get

rid of those expenses then we have to add back in the expense of paying the service fee to Wheelabrator and it is close to a wash. There is certainly a little bit of a savings because of the payment to Wheelabrator. Mr. Hardison said if you are short \$150 million a month there's got to be a value there to ensure that \$150 million. So there are real costs involved I think if you look at the real numbers. Ms. DeVary said there is; we can take a look at it but it is very complicated because of all the debt service and all the different issues you have. If you really want, I will take a look at it and try and give you exactly what that is and then it all depends too on what capital expenses you may incur. And that is where your significant costs are going to be. Mr. Hardison said and the maintenance issues we talked about and the upgrades. Mr. Nowlin said the final inspection by consulting engineers must occur within the 30-day period prior to closing. We would expect to push that out probably until we are certain of a closing date and that will determine whether there has been any diminution in value and whether there is any closing adjustment relating to the condition of the facilities but obviously if we end up in an extension situation there is the question of whether there is any deferred maintenance. Ms. DeVary said she would prepare something for you and get that out to the Board sometime this week. Chairman Leafe then said that completes that part of the agenda.

C. FINANCIAL MATTERS

1) Financial Reports

Ms. DeVary presented the Financial Reports. She said I am pleased to report that at the end for the period ending February 28th the year-to-date revenues exceeded expenditures by nearly \$9.3 million dollars. Expenditures are under budget by approximately 11%; however, for the actual month of February, the financial statement does reflect a loss of approximately \$2.2 million which is primarily driven by couple of factors. One is the reduction in tonnage that is typically experienced in the month of February. And the second is we had, due to the termination of the forbearance agreement with the City of Virginia Beach, we are incurring those monthly expenses now which on a month-to-month basis the budget is reflecting a loss but for year-to-date it is positive. I don't think there is anything out of the ordinary to report on the waste stream report except that we are slightly down. If you would look at it from a straight line basis but once again this is typical for the month of February. Also in the graphs or the performance indicators that we have prepared if you would look at slide # 5, that just gives you a visual of the drop in tonnage come February and you will see historically it will come back up this next month.

Capital projects to date, we have spent approximately \$6.2 million and we have about another \$3 million encumbered. Our cash balances remain healthy. We have made all of our transfers for the debt service, as well as putting money aside for the operating reserve. Cash available is around \$33.5 million. Ms. DeVary asked if there were any questions regarding the financial reports? Mr. Woodall said he had one question, not really directed at you more directed to you, Mr. Taylor. When you go through your month, now last month you lost money and this month you lost money, \$1. whatever last month, \$3 point some million dollars in two months. When you go through your month and you see it is going south, and I assume rightly or wrongly so that on a weekly basis or daily basis you are looking at that to see which way the month is going, what kind of adjustments do you make?

Mr. Taylor said we know it is going to be that February and March are low months. We have to use cash to take care of that and then we know April, May and June we will have the revenue that will make it up, historically. Mr. Woodall asked do you do any operating adjustments and Mr. Taylor said no, we know it can go on. Ms. DeVary said they aren't necessary per se because we are not incurring expenditures that weren't budgeted; it is really more of a cash flow and timing of when you look at the financial report. Mr. Taylor said we are not going over the budget. Ms. DeVary said and we certainly are not having any cash flow issues whatsoever. Mr. Woodall said he sees that and I commend you on that. But from an operating standpoint that doesn't compute. Mr. Taylor said we don't have the luxury that, we have transfer stations and we have to have people there, we can't send people home and not pay them for example. Everybody has to be there until a certain time of day because we have to have the transfer stations open for business for the communities and private haulers according to their contract also. The landfill the same way, the Power Plant; everything is pretty much the same way. Ms. DeVary said but if we could take a look at the financial statement that's on Page 5 you will see that the operating revenues were \$7 million for the month of February. The operating expenses were \$3.3 million, and the capital projects were approximately \$2 million. The debt service that we make the cash payment to was almost \$1 and a half. So really your \$2.2 million comes from making the additional transfer to the operating reserve which when you are looking at this statement here it is looking as an expense but truly it is just putting money aside, it is not money that has left SPSA and that was little over \$1 million. And then the funds that we are sending now to Virginia Beach each month that originally were not budgeted. Mr. Woodall what I understand what you are telling me is you either have a contract that forbids you from cutting back; an agreement or everybody is salary. Mr. Cheliras said but a lot is volume driven; if you have less volume you are not running as many trucks to the RDF plant so your contract costs should be down. Mr. Taylor said we have already reduced 90 people out of the past year. We have already taken those positions, are no longer paying for them as we move forward until the next year. And also with the sale of WTE we realize there will be an additional RIF of somewhere in the neighborhood of 40 employees. Mr. Woodall said but in the budget you have projected you are still going to cut 13 jobs and add one or cut 12. Mr. Taylor said no, we are cutting right at 40 in next year's budget.

Mr. Oksman said for those of us that have struggled with municipal budgets and certainly the managers know this better than any of the rest of us you have peaks and lulls and times in both expenditures and revenues and sometimes your revenues don't come in at a time to match up your expenses but when you adopt your budget you adopt it for the fiscal year so over the course of the fiscal year everything washing out at the end and you get in trouble only if your are forecast and projections change to such a degree that you have to do short term borrowing and Bucky would I be safe in concluding that the expect same thing applies to SPSA. You adopt an annual budget, you anticipate fluctuations in the waste stream and you budget it so that at the end of the year barring any unforeseen developments you will be where you expect it to be. Mr. Taylor replied, right. Mr. Everett Williams said you can adopt such things as no overtime, hiring freezes. Mr. Taylor said we have hiring freeze. Mr. Taylor said overtime has been cut back but there are still situations where overtime is required. This absolutely would be a concern if you are going each month with a negative. But look at your year-to-date, you still have, even taking those two-month negatives you still have revenue in excess of expenditures of \$9.3 million. Mr. Woodall said his concern is two months from

now, 60 days from now, when you don't have the electric and steam you are selling to kick in and I have looked at the personnel you put on and I don't see where you are making drastic changes other than the people you are transferring over. You are making little changes and probably positive changes maybe as the time goes on but I have been three months and two of the 3 you have been in the red and I don't have a lot of confidence in seeing that. Ms. DeVary asked but did you see where we were when you started. Revenues exceeded expenditures by \$10, 12 million. Mr. Woodall said under a normal course of business when you see these negative trends developing one takes steps to jump in and do something and I understand from you that you are saying there is nothing you can do and I don't by it.

Chairman Leafe said the points have been made and they can be reflected upon and addressed. Is there motion to receive the financial report subject to audit? Mr. Oksman (PO) made such a motion and it was seconded by Mr. Caskey (IW). All present voting yes; opposed none. The motion was approved and carried by a unanimous and recorded vote.

2) Contracts

a) Extension of Mesirow financial contract

Ms. DeVary explained that this contract is to extend the contract with Mesirow Financial which is the consultant that will be developing and executing the debt retirement plan with the proceeds of the \$150 million. Originally when this contract was signed, the planned closing date was by March 31st but since that has been extended we also need to extend their contract. It will be until closing and the complete execution of the debt retirement plan or July 18th. Up until now they have been compensated \$30,000 a month and their contract has run from the 18th of the month to the 18th because the contract wasn't effective until the SPSA Board signed an agreement for the sale of the WTE. So since the majority of the work for developing the plan has been done, their monthly retainer amount will decrease to \$15,000 a month between now and the completion date. Mr. Everett Williams (FR) made a motion to approve the extension as presented and the motion was seconded by Mr. Martin (CH). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

b) Installation of Waterwall Panels on #3 Boiler

Ms. DeVary said the next contract if you recall, we had brought this before the Board earlier this year, this would be for the installation of the waterwall panels in the number 3 boiler. You had previously approved the purchase of the waterwall panels. The bids that were done for this installation are good until April 16th so in an effort to not have to rebid what we would like is to go ahead and award this contract but we will decide on when the notice to proceed would go out. If we close on or before May 1st then Wheelabrator will be paying for the installation and completion of this project. However if we don't close and depending on whatever extended amount of time that might be, we would still need to move forward with completing this project if we still continue to be the owners.

Much discussion continued regarding reimbursement of the cost of the panels if they are in inventory at the time of closing versus if the installation had begun or taken place prior to closing. The understanding is that the work is scheduled to start the 8th of May. That's

when they will come out of inventory so if the sale has been transacted, Wheelabrator will have already reimbursed SPSA for that inventory. If the sale has not been transacted then SPSA will be carrying that monthly reimbursement. Mr. Woodall asked why we would spend \$500,000 on something that we are going to be out of in a couple of weeks. If in fact we don't sell it SPSA will bare the cost of the tubes and the installation.

Mr. Nowlin said the deal take is \$1 million. If it is in inventory you get reimbursed the \$500,000 in effect as a closing adjustment. If it comes out of inventory and you start work and you pay the vendor, you end up with not getting reimbursed for the inventory and SPSA has to pay for whatever it gets billed for work in progress. So the delta is up to \$1 million but you lose that \$500,000 credit at closing so I think it is critical and I mentioned to Mr. Mark Schwartz to coordinate with Wheelabrator on this because the key is going to be commencement of the work. It is possible to defer commencement of the work. That has other ramifications that Mr. Taylor may shed some light on, but the commencement of the work is the due date.

Mr. Mark Schwartz with Wheelabrator said it is certainly their hope that we close by May 1st. If we don't close by May 1st there are issues for us just as for SPSA. If we close by May 15th there would be some kind of pro rata formula for any outage that would take place. Mr. Oksman (PO) pointed to the condition assessment and pre-close walk down as very valid. The condition assessment was done on all the units, all combustion units was specifically done with the 5 year maintenance plan that SPSA has in progress now and for years to come and with that in mind the assessment of all those critical pieces of equipment that are done before closing are based on the units run time. As Mr. Taylor said this particular unit is off line right now on schedule because of the deteriorating condition of those waterwall panels. It is in everybody's interest we believe to continue with the outage schedule because pushing that out a month will lead to reduced availability or reliability for that unit. And whether or not we can work something out depending upon what happens with the May 1st date I would say we have to leave those discussions to our legal teams. We know that if there is a closing in the middle of an outage as we thought might be the case this month it was going to be a pro-rated payment formula for however much of the outage was completed percentage wise. But if the plant is not ours right now I can't sit here and say that we would pay for the outage and material in inventory. If we have a firm closing date I am sure the legal teams can sit down and work out a formula to do that. But if the outage does not take place as has been scheduled it certainly affects their reliability and availability and the revenue producing ability of the facility which is very important to us and will be at the pre-close assessment.

Conversation took place on asking for a contract extension and Mr. Oksman (PO) make a motion to do the following things: One, to take this particular action item and defer it until our next meeting; no vote on this today. Second, this will be part of the motion: To direct staff to pursue a contract extension of the appropriate period of time. And then third: To direct staff to have discussions with Wheelabrator about whether this can be handled in a way that's equitable for both sides without regard to a particular closing date. Mr. Hardison said the concern I have is whether we admit it or not, as a group we are walking around in the dark. We have never seen, and Bucky took some notes, we really need to see the correlation between the contract and our requirement for the sale of this thing at least through the end of May. What does it cost us; what are we contracted to do whether we sell it or not? Chairman

Leafe said he thought that was part of what was being asked of staff in Mr. Oksman's motion. Mr. Oksman replied dealing with the impact of timing on the particular contract. Mr. Hardison said as long as it is understood because when we come back to the meeting I want to see a chart that lays it out clearly. Mr. Oksman said let's include that in the sense of my motion. Chairman Leafe said it has been moved and it was seconded by Mr. Caskey (IW). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

c) Electrical Separation at RDF – Operations Center

Continuing Ms. DeVary said the third contract is for the electrical separation at the RDF plant and the Operations Center, noting that the bids for this were just opened on Friday. Chairman Leafe said this was sent out as a supplemental brief. Staff would recommend awarding the contract to HBH Industrial Services in the amount of \$63,600. Chairman Leafe said when they will complete the work and how does that tie in to the closing date. Mr. Taylor said 45 days is their estimate to complete the work. Mr. Everett Williams (FR) made a motion to approve the contract for the electrical separation and it was seconded by Mr. Stein (NO). All present voting yes; opposed none; motion was approved and carried by a unanimous and recorded vote.

3. Tipping Fee Schedule and Public Hearing

Mr. Taylor said the next item is the proposed tipping fee schedule. He said staff would recommend that the Board authorize a public hearing on the proposed tipping fee schedule for the April 28th Board meeting. The tipping fee schedule that would be advertised is on page 16 of your agenda packet and those would be the amounts that we would be advertising. Once you have your public hearing on this any of these rates or amounts can be reduced. They just cannot be increased without having a subsequent public hearing. As we mentioned before the \$170 municipal solid waste tipping fee we feel if anything could possibly go down. Mr. Everett Williams (FR) said we don't have to wait thirty days after that public hearing and Mr. Taylor replied no, sir. Chairman Leafe said there is actually a resolution in the Board's packet adopting the preliminary schedule of fees and setting the public hearing on the same. Mr. Caskey (IW) made a motion to approve the resolution set forth on Page 13 of the agenda and it was seconded by Mr. Taylor Williams (FR). Mr. Martin (CH) said he had to make a statement which is that the City of Chesapeake has pending litigation which one of the counsel alleging discriminatory and unequal tipping fees and so my vote is without prejudice to the city's position in the litigation. Chairman Leafe said that is accepted and in the record. All present voting yes; opposed none; motion was approved and carried by a unanimous and recorded vote. Chairman Leafe said the resolution is adopted and we will have the public hearing on the tipping fee with an advertised fee of \$170 on April the 28th.

4) Budget Update/Questions

Ms. DeVary said the final item I have for you is a budget update of which I do not have any new information to share with you regarding the development of the 2011 budget. A couple of questions have been raised and I have send out e-mails to you but just want to go over two slides real quickly. The question came up at your last meeting about lowering the tipping fee to \$125; what would it take to get there and I think it is important to note that only about 51 percent of your budget is truly discretionary. There are some other contracts in there

but the bulk of it, 49 percent of it is non-discretionary. So if you would remove the \$8 million for capital improvement, \$3.4 million for the deposit to closure funds and the \$1.5 million for the reserve, if you would remove those discretionary items from the budget we could have a tipping fee or could set a municipal tipping fee of \$137. Of course that is not what we would recommend, that's more than likely what's been done historically and why you are where you are. Chairman Leafé said but if you remove the deposit for the closure that would just be a deferral, you will still end up having to put the money in there under someone else's requirements, DEQ I guess. Ms. DeVary replied correct. She continued saying currently you are paying for a letter of credit that is put up by Wachovia to DEQ to post your financial assurance for this. As I have worked with Wachovia as these deposits go in, then the amounts that we have to pay for the actual line of credit is going to be reduced. So we are getting a benefit there. Chairman Leafé asked if that has been submitted to the members. Ms. DeVary replied that she sent this out in an e-mail to the Board.

Ms. DeVary also said she wanted to go over briefly how we arrive at the municipal tipping fee. To come to the municipal tipping fee that is basically the last number that you calculate. It has been classified as the net revenue requirement. It is the amount that closes the gap and balances your budget. First we have our total expenses. Then we subtract out all what I am just referring to as 'other revenues' even though they are significant which would be the cap tipping fees paid to Virginia Beach and other miscellaneous tipping fees for construction demolition and debris, your Navy solid waste, the Norfolk sludge, the revenue received from the tire shredder, your landfill gas, et cetera. The net revenue requirement is \$45.25 million and then that is divided by the projected tonnage of six of the eight member localities which this next year we are projecting 250,490 tons. That is where the \$170 per ton municipal tipping fee comes from. Are there any questions regarding these two items or budget?

One member asked Ms. DeVary back on the previous slide about the operating budget and discretion and on the reserve and contingency line item of \$1.5 million, is that something we fund every year or is it a fund balance that's trying to be maintained. Ms. DeVary said the amount is budgeted and appropriated in the current year. It doesn't if we don't use it; we are not setting it aside in another account or anything. The member continued saying so appropriating it to the operating budget every year to be available and if we don't spend it, it goes back to your regular fund balance. The speaker then said is there a fund balance from the previous year that you are using at all? Ms. DeVary said this fiscal year yes, because we started the year off with about \$11 million in cash in the bank but previous years here at SPSA no there hasn't been. A member asked how much of that \$11 million have you put into this budget. Ms. DeVary replied none. A member said so you still have \$11 million in your fund balance. Why are we still budgeting reserve and contingency when we have \$11 million of reserve and contingency money. Ms. DeVary said it is more a budgetary appropriation. But I guess we could reclude that and use the operating reserve. Mr. Taylor said one of the main reasons we did not do that this year is this is a year when you will have a tremendous transaction if you go through with the Wheelabrator contract. The idea was let's hold this year as much as we possibly can. You may have future years when you have an ability to do something with it, but doing it and getting rid of it now and then needing it means you have to increase the rates in the middle of the year and that's what we were trying to avoid. When we first introduced the budget we mentioned some things that we were still working on and one was determining the actual available cash balance. We will take this into account as we go

through with the closing. If anything that \$170 tipping fee would come down so this could be one of those things that we use the fund balance for. A member said I agree we want to hold a lot of that reserve available not knowing how our tax IRS is and there may be additional costs. My goal is to drive the tipping fee as low as possible because the impact on our citizens and talking about the worst budget years local governments ever experienced and if there are ways to reduce that fee in the current year and if that means deferring some capital stuff to a couple years out when our revenue picture is better that can only be good for our citizens and the burden. Chairman Leafé said the budget is not approved yet and certainly that can be considered in the budget process and all we are doing is just advertising in effect what will be our maximum tipping fee and then we have in the budget process the ability to do other things such as discussed around the table.

A member said he was certainly very appreciative of the \$170 instead of \$198. That was the shock factor. The \$8 million capital you will see I am planning on using previously borrowed capital project funds that is if you look on the front page of the budget it says 'fund balance for capital' - \$3.4 million. A member said so using some previous carry-over money for that. Mr. Woodall said when you put your finances together number one I would like to review it. All this about 90 days after we close because then you will have a handle on where we are going and what the money will look like and if we want to reduce rates we don't have to notify anybody; we make everybody happy but when putting the finances together I would like to see the operating budget and capital budget and I want them separated. That's my preference your capital budget one thing and funding source supposedly different than your operating budget. Your operating budget comes from your tipping fees and all that. Now we can't borrow money so that's why I see you-all slipping it into one page but I think better represent yourself if you put the capital out because you have got \$11 million dollars and asking for \$8 and capital. I don't want to fund the capital budget because I know you have got money so I would like to see the budget separated out.

Chairman Leafé said let's hold off on that; let's deal with our legal advertisement requirements for the tipping fee. We will certainly among ourselves have as much discussion as we need and want on the budget itself before we adopt it and hopefully before we have to adopt the 2011 budget that we will have all these other pieces sorted out and know more definitively what our financial requirements are coming out of the transaction and going forward. We recognize that this agency is a creature of local governments and the local governments are all represented around the table and we recognize their pressures and some of them wear dual hats and some of us don't. But in any event we will certainly work on that as we get into the budget.

Chairman Leafé called for a vote to approve the resolution adopting the preliminary schedule of fees and charges and setting the date for the public hearing. This motion was made by Mr. Caskey (IW) and seconded by Mr. Everett Williams (FR). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote. One of the members asked if Ms. DeVary could e-mail the Board the other calculations of the tipping fee that weren't in the other e-mail.

Prior to the request for closed session Mr. Williams said I think it is in due course we have our Wheelabrator friends here today and certainly we welcome you and I don't think that you

ought to draw any conclusions from the money discussion that we had regarding this. I think the Board is in a conscience agreement that we want to be good partners with you and do a fair shake on this thing but we are appointed here to kind of watch the dollars so please don't interpret our frugality or attempt at frugality as being against this pending business agreement with you guys. We wish you the best and we certainly hope that we can an as set and aid in being a partner with you in the future. Another member said thank you and honestly we appreciate that as well. We don't have the authority or the wherewithal to say we could do this if we didn't own the plant but I'm sure our legal teams and your legal teams will work that out and we hope for a seamless transition going on three months with your alls staff at the facility and our staff there, boots on the ground every day to keep moving to seamless transition. That's part of the frugality. We're on your side. Chairman Leafe said well mostly on your side, more on the side of SPSA and the public and we can endorse Mr. Williams' comments but don't ignore the other comments that were made around the table in the course of the discussion.

3. REQUEST FOR CLOSED SESSION

Chairman Leafe called upon Mr. Tony Thiel, General Counsel, to make the request for Closed Session. Mr. Thiel read a revised request as follows:

- 1. A request is made for a closed meeting to consider information, reports and advice regarding (i) the SPSA transfer house site and adjoining land, and Portsmouth's proposal for agreements impacting SPSA's land and settling pending litigation, (ii) a landfill gas contract with Suffolk Energy Partners, (iii) a proposal for a lease of SPSA's recycling facilities, and (iv) the sale of the waste-to-energy facilities pursuant to the following: (1) Virginia Code Section 2.2-3711(A)(3) for discussion or consideration of the disposition of publicly held real property and the acquisition or leasing of real property for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body; (2) Virginia Code Section 2.2-3711(A)(7) for the purpose of consulting with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel; and (3) Virginia Code Section 2.2-3711(A)(29) for the purpose of considering the negotiation of revisions to the terms of existing contracts and/or negotiation and award of new contracts where competition and bargaining are involved and where discussion in open session would adversely affect the bargaining position and negotiating strategy of the Authority.*
- 2. That the following be permitted to attend the closed meeting because they are deemed necessary and because their presence will reasonably aid the Board in its consideration of the topics that are the subject of this meeting: Staff from the City of Virginia Beach; SPSA staff present at this Board meeting; SPSA's consultant (Mr. Gardner of SCS); and SPSA's special legal counsel (Messrs. Robinson and Nowlin).*

Mr. Hardison (IW) made a motion to approve the requests for Closed Session as read and the motion was seconded by Mr. Everett Williams (FR). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

Upon completion of the Closed meeting, the following certification was read:

The Board of the Southeastern Public Service Authority of Virginia hereby certifies that, to the best of each member's knowledge: (a) only public business matters lawfully exempted from open meeting requirements by Virginia law under the Virginia Freedom of Information Act were discussed in the closed meeting to which this certification applies; and (b) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered in the closed meeting just concluded.

A motion to approve the certification as read was made by Mr. Taylor Williams (FR) and seconded by Mr. Stein (NO). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

ITEM NO. 4: ACTIONS RESULTING FROM CLOSED SESSION

Chairman Leafe said there was one item to be acted upon from the Closed Session and that was the resolution calling for a public hearing on the landfill gas contract. Chairman Leafe called for a motion to approve the resolution calling for a public hearing on a proposal by Suffolk Energy Partners, LLC for the purchase of landfill gas and installation and operation of equipment, facilities and systems at SPSA's Suffolk landfill on April 28, 2010 at 9:30 a.m. at our next Board meeting. Mr. Adams (SU) made such a motion and it was seconded by Mr. Taylor Williams (FR). All present voting yes; opposed none; motion approved and carried by a unanimous and recorded vote.

Mr. Oksman (PO) said it very refreshing and a very, very positive change to see the wisdom, people who have been successful running businesses in the private sector and running them properly being brought to this group. We are a much better group because of it.

OLD/NEW BUSINESS

Mrs. Ivory said there was one new business item that Mr. Barnes (VB) will speak to. Mr. Barnes said Mrs. Ivory was handing out a letter from Mr. James Spore, the City Manager of Virginia Beach, and what that is is a matter providing some historical context to what our existing relationship is with SPSA with the new Board members. Some of what you are going to see walking in seems strange and I've had some comments and those are absolutely understandable comments. I knew that it was a matter of time; the City Manager knew that it was a matter of time and those are things that need to be addressed. I would urge you to take a look at that and I'm available to discuss those things as is the City Manager. We are partners in this arrangement and it is important to understand the historical context of where we are and where we've come from.

ADJOURNMENT

There being no further business to come before this Board of Directors, the meeting was adjourned by the Chairman.

Rowland L. Taylor
Executive Director

Submitted by: Lou Ann Ivory
Secretary, SPSA Board of Directors