

**MINUTES OF THE  
BOARD OF DIRECTORS MEETING  
SOUTHEASTERN PUBLIC SERVICE AUTHORITY OF VIRGINIA**

**March 26, 2008**

At the regular meeting of the Southeastern Public Service Authority of Virginia beginning at 9:30 a.m., in the Regional Board Room, Chesapeake, Virginia, there were:

**ROLL CALL**

Members:

Leroy Bennett, Chair	(SU)
Bryan L. Collins	(CH)
Charles A. Wrenn (Vice Chair) <i>absent</i>	(FR)
James B. Brown, Jr.	(IW)
Donald L. Williams	(NO)
Ray A. Smith, Sr.	(PO)
Dallas O. Jones	(SH)
Michael J. Barrett	(VB)

Alternates:

William E. Harrell *	(CH)
Rowland L. Taylor	(FR)
W. Douglas Caskey <i>absent</i>	(IW)
Stanley A. Stein <i>absent</i>	(NO)
Kenneth L. Chandler	(PO)
Mike Johnson	(SH)
Eric T. Nielsen, Jr. <i>absent</i>	(SU)
Bill DeSteph <i>absent</i>	(VB)

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

\* Indicates Late Arrival (but prior to any voting)

\*\* Indicates Early Departure

The meeting began with the invocation by Chairman Mr. Ray Smith (SU), the Pledge of Allegiance by all attendees, and was followed by Roll Call. A quorum was present.

**CHAIR STATEMENT**

Mr. Bennett did not have a Chairman's Statement today.

## **PUBLIC COMMENT PERIOD**

Mr. Bennett stated there was one speaker registered to speak today, The Honorable John Cosgrove, and called him to the podium.

“Mr. Chairman, Ladies and Gentlemen, my name is John Cosgrove and I work with Waterway Consulting and one of my clients is Waterway Recycling. We noticed the proposed rate structure that was on the internet yesterday and we have some concern over the rate structures that are being proposed by SPSA. Several concerns that we have are the artificially low rate on construction and demolition debris that is actually brought into the Suffolk landfill. It is well known and has been documented both in the paper and otherwise, that SPSA is running out of landfill space. Certainly Cell VII, you want to expand Cell VII but you have problems of being within 500 feet of a residential or water area, but we continue to take fully recyclable material into the SPSA landfill. There are four MRF’s [Materials Recovery Facilities], three that are permitted and one that is coming on-line in this area that can handle construction and demolition debris. They can recycle concrete; it can recycle wood, metal, brick, block, masonry, and other materials and put that back into the local economy. It can’t do that if it has gone into a landfill; especially when the proposed rate, now it used to be \$22, now it’s going up to \$30, per ton now and instead of the basic cubic yard rate. I think when you actually look at the cubic yard rate there is not a whole lot of change between what was and what is to be.

In addition, having been on City Council and I wouldn’t want to embarrass Mr. Collins as he has been there later than I have but I am concerned that of course Chesapeake is going to bear a \$104 per ton tipping fee while \$30 is the rate for construction and demolition debris brought into the landfill. I ask the board to look at long-range vision while I understand the construction and demolition brings a revenue source for SPSA, part of the mission of SPSA is to recycle. In fact, you go on your website and you make a big deal about recycling aluminum and other things and how many plastic bottles can be made out of the amount of plastic you recycle and how many 707 or 747’s can be built out of the aluminum you recycle but you are missing a big part of the recycling picture with construction and demolition debris. This material does not bio-degrade easily; it does not compact easily; it takes up a great deal of landfill space. So I would ask you all to look at this very carefully; it is a concern to us, I think it should be a concern to the community and to the environmental well-being of our community. The more recyclable material you put into your landfill means you are going to run out of landfill space a lot sooner. Right now you are predicting 2012; how much longer is that landfill going to be available if we stop putting this type of material in that landfill. Thank you.”

## **EXECUTIVE DIRECTOR’S STATEMENT**

“Thank you, Mr. Chairman; I would like to comment on Delegate Cosgrove’s comments. The proposal that you will consider later in the agenda is actually to increase the C & D (construction and demolition debris) disposal rate and also to discontinue the “cubic yard” concept. The current rate for C & D is \$22 a ton; the proposal is to raise that to \$30 a ton, about a 30% increase. We can talk more about that later; obviously I am sure that there will be a lot of discussion.

I also would like to talk with you about a phone call I received last night from David Paylor, Executive Director from DEQ. You may recall from last Board meeting, we advised you of an issue we had with our Part A permit for the landfill expansion of Cell VII. The issue we had had to do with some ambiguous state law that requires landfills to be a mile or more away from a public water supply. The difficulty we had with the state law is interpreting quite what it meant. As we read it, as our attorneys read it, the law was pretty clear that landfills could not be built within one mile upstream of a public water supply; be that a surface water supply or a ground water supply. Let me explain a little bit on that; if you think of the City of Richmond on the fall line on the James River, if it takes water out of the James River above the fall line, which it does, could a landfill be built a mile downstream, that is downstream from the intake, and not have a detrimental impact, even if it leaked, on the City of Richmond's water supply. Well, obviously you could. Water does not run upstream. When you think of groundwater, it moves much in the same way; up-gradient, down-gradient. If a landfill is down-gradient from a ground water supply there is no practical way if it did leak could impact that public water supply. That is the situation we find ourselves in with the Green Pines Motel in the City of Suffolk. We went to Richmond, myself, Dick Cheliras, Scott Whitehurst our Environmental Superintendent and Warren Tisdale from Willcox and Savage and met with Dave Paylor and his staff. Dave called last night about 5:00 p.m. and said a letter is coming that we agree with SPSA's interpretation of the law. I don't want to characterize this as 'SPSA's winning'; we didn't win; we all win; the public wins. SPSA would never do anything that would be detrimental to the public health and safety. As I said, this groundwater supply is up-stream from the landfill; water flowing by that motel comes towards the landfill. Dave said the letter from DEQ would be coming in the next few days and I am going to be very interested in seeing what particulars are there. Clearly we will have to demonstrate to DEQ's satisfaction that we are in fact down-gradient, but at this point I am very gratified that DEQ and we have reached a common understanding about what the law says and look forward to continuing the progress we have with DEQ and the progress we are making on our permit application. Mr. Chairman, thank you very much."

Mr. Bennett commented that this is great news for all of us; especially Suffolk. We have met a couple of times discussion how we could overcome this situation with the well and we started looking at several different scenarios that we could approach and come to a conclusion with and this can slow the pace down a little bit by having this good news coming from DEQ. I cannot thank John and staff enough for the time and effort they have they have taken to go forward and work on this with DEQ and resolve this. This is something that the Executive Committee had talked about last week and we had asked John to really get with DEQ and start asking more questions and he did just that and we cannot thank him enough.

Mr. Collins (CH) said he wanted to start off by commenting on what The Honorable John Cosgrove had presented and wanted to give staff if they needed to get some information but that we were going to address some of these things later on. It has been brought to this body's attention and we've had some discussion and debate about the C & D and how it fits into our program but if we could have a little later on as we get to this agenda item, be prepared to show the Board and the audience how we arrived at bringing on C & D and how it fits into our schedule and what the plans are for dealing with C & D and we will get into more detail later on. On that impact, I am looking forward to getting some hard-core information on how the ground water moves and noted that he had past experiences with burrow pits and so on and looked

forward to hearing what would be the short and long-term expectations of ground water especially during drought times, especially with if what is expected could be shifted during severe drought situations, noting that he was as concerned about the citizens of Suffolk as he was about the citizens of any other locality.

Mr. Barrett (VB) stated that he concurred that this was excellent news and indicated to Mr. Hadfield that perhaps this was what was discussed at the Executive Committee meeting last time, the whole presentation last month about the permitting process revealed a lack of concerted attention. Perhaps that has been totally corrected, but this good news should not alter the fact that this is probably the most crucial challenge facing us right now and he hoped to keep our attention on it and he thought John was going to do the same.

## **SPECIAL PRESENTATIONS**

### **ITEM NO. 1: PRESENTATION OF RETIREMENT CERTIFICATES**

The Board of Directors of the Southeastern Public Authority, along with the Executive Staff, wishes to recognize long-term employees of SPSA with a *Certificate of Appreciation* upon their retirement. This month we have two individuals retiring and taking advantage of the early retirement initiative and leaving at the end of March; Debbie Devine who was not able to be here today and Glenn McGrath who is here today. Lou Ann Ivory read aloud the Resolution of Appreciation for Mr. McGrath and it is hereby printed in these minutes along with Ms. Devine's.

***Southeastern Public Service Authority of Virginia***  
***Chesapeake, Franklin, Isle of Wight, Norfolk, Portsmouth,***  
***Southampton, Suffolk, and Virginia Beach***

***Resolution of Appreciation***

***PRESENTED TO***

***Debra C. Devine***

***WHEREAS, Debra C. Devine,*** has served the Southeastern Public Service Authority of Virginia for more than five years as Director of Recycling, since January 1, 2003; *and,*

***WHEREAS,*** her commitment to promote recycling as a fundamental aspect of the solid waste management programs of the Authority with her loyalty to the region, her dedication to her employees and the service they provide has rendered an invaluable service to the citizens and the member communities of southeastern Virginia, the State of Virginia, and to this Authority, enhancing the quality of life for all; *and,*

***WHEREAS,*** with a feeling of deep gratitude, on this occasion, the Board of Directors and her co-workers at the Southeastern Public Service Authority of Virginia express their respect and appreciation for her professional service to the Authority and to the citizens that it serves.

***NOW, THEREFORE, BE IT RESOLVED,*** with great pride, the Board of Directors of the Southeastern Public Service Authority of Virginia recognizes, thanks and commends ***Debra C. Devine,*** for

her service to the citizens of Hampton Roads and to the Authority, and upon completion of her service presents this Resolution as a token of its esteem and orders a copy be spread upon the minutes of this meeting.

*Adopted this 26<sup>th</sup> day of March, 2008*

Attest: \_\_\_\_\_  
Leroy Bennett, Chairman of the Board

\_\_\_\_\_  
John S. Hadfield, P.E., Executive Director

**Southeastern Public Service Authority of Virginia**  
*Chesapeake, Franklin, Isle of Wight, Norfolk, Portsmouth,  
Southampton, Suffolk, and Virginia Beach*  
***Resolution of Appreciation***

***PRESENTED TO***  
***Glenn K. McGrath***

***WHEREAS, Glenn K. McGrath,*** has served the Southeastern Public Service Authority of Virginia for more than fourteen years, since March 7, 1994 as Director of Human Resources; *and,*

***WHEREAS,*** during his tenure, his willingness to support the solid waste management programs of the Authority with his commitment to the region, his dedication to the employees of the Authority and its progressive goals, his knowledge, skills, experience and personal time has rendered an invaluable service to the citizens and the member communities of southeastern Virginia, the State of Virginia, and to this Authority, enhancing the quality of life for all; *and,*

***WHEREAS,*** with a feeling of deep gratitude, on this occasion, the Board of Directors and his co-workers at the Southeastern Public Service Authority of Virginia express their respect and appreciation for his professional service to the Authority and to the citizens that it serves.

***NOW, THEREFORE, BE IT RESOLVED,*** with great pride, the Board of Directors of the Southeastern Public Service Authority of Virginia recognizes, thanks and commends ***Glenn K. McGrath,*** for his service to the citizens of Hampton Roads and to the Authority, and upon completion of his service presents this Resolution as a token of its esteem and orders a copy be spread upon the minutes of this meeting.

*Adopted this 26<sup>th</sup> day of March, 2008*

Attest: \_\_\_\_\_  
Leroy Bennett, Chairman of the Board

\_\_\_\_\_  
John S. Hadfield, P.E., Executive Director

Mr. Bennett thanked Mr. McGrath for his years of service and wished him and his family many years of enjoyment in his retirement. Mr. McGrath expressed appreciation for his wonderful staff and acknowledged the support of the Board over the years.

## **ITEM NO. 2: PRESENTATION OF PROPOSED FY2008/09 OPERATING AND CAPITAL BUDGETS**

Mr. Hadfield said there was a presentation on the budget and called Mr. Louie Jordan, Deputy Executive Director of Operations to the podium. Mr. Jordan provided a handout and gave a PowerPoint presentation of the Proposed Operating and Capital Budget for FY2009 which is included in these minutes as Appendix A.

Mr. Jordan noted that the top line was the remarkable one, stating that the overall budget had increased by just over \$1 million or about 1% of the current budget. The total budget has one less full time employee; we are currently authorized for 488 and will show 487. The biggest change is that which is reflected by the adoption of flow control ordinances by six of the eight member communities. Mr. Jordan said his instructions were to assume that flow control would be effective with new rates to help equalize the rates beginning February 1, 2009 and they would be effective in the six member communities that have adopted it. The municipal tipping fee that we are showing right now is \$104 per ton for the period of time July 1, 2008 through January 2009 and then dropping to \$80 per ton February 1, 2009 to help the equalization of rates.

In reviewing the presentation, Mr. Jordan highlighted that tonnage projections were a concern; overall projected tons were down, commercial tonnage is down 88,000 tons largely due to implementing flow control next February and the anticipated loss of some of the waste stream from the two communities who have not adopted flow control. Out-of-area processable tonnage is also expected to be down significantly because we are raising the rates and our expectation is that we will virtually eliminate this stream. A new CDD landfill is expected to open off Centerville Turnpike and it is anticipated that this will cause a decrease in our amount.

Operating expenses (slide 9) shows the departmental increases or decreases (Environmental Management and Safety), with Administration including the cost of contingencies relative to the potential sale of the waste-to-energy system. \$250,000 is also allocated in this budget for posishell application which is a synthetic spray-on alternative cover to be used instead of the required 6-inches of dirt which will help in extending the life of Cell VI. Money was moved around in this year's budget for such use and it will be continued next year. A 3% wage increase for employees is also included. The Recycling Department budget is increasing primarily to restarting our composting program. This move is to help alleviate the disposal of approximately 20,000 tons of leaves and grass currently being deposited into the landfill since the program was halted last year.

Regarding the Waste-to-Energy System, the Power Plant budget is increasing 12.5% primarily due to reallocating of personnel to address environmental and safety issues. OSHA inspections over the past years have required us to make some of these changes and the recent increase in the frequency of accidents has also become a concern.

Mr. Jordan also highlighted the average pay increase of 3% for employees, noting that we are having difficulty attracting new employees. The Capital Budget is increasing in part due to the replacement of equipment at the landfill. Major changes have been made there and the equipment is deteriorating and having deferred previous maintenance costs is now evident and needs to be dealt with. Also, costs to procure land for the northern Suffolk transfer station are included this year.

Mr. Jordan summarized that the overall budget increase is approximately 1%, all financial policies are being met and noted that we will continue to work with the ICC and BAC on the budget and will continue to look at ways to reduce expenditures and increase cash funding of expenses. He then took questions.

Mr. Williams (NO) asked Mr. Jordan if he knew what percent of the budget would be cash-funded and what percent would be new debt. Mr. Jordan replied that a total of \$300,000 would be cash-funded which he thought was 1%. Mr. Collins (CH) asked what reduction in the budget would be required to keep the tipping fee at \$100/ton or not have any of those additional increases in fees.

Mr. Barrett (VB) stated that regarding the start-up of the private recycling facilities in view of our decline in municipal and commercial solid waste, is it prudent to engage in a new program or is it possible to just continue receiving that waste....do we need to start that program up again?

Mr. Jordan noted that this is a question that the Board is going to have to answer. We could haul it; I wouldn't take it to the RDF plant because the BTU value of grass is not what we normally have from regular household waste and we have enough of that at this point, what it would do is just eat up landfill space. In deciding how best to make sure that we have whatever cushion we have that we talked about before, it needs to be a decision that is made. It also needs to be something that would be a Board discussion; do we continue that special yard waste rate for material that is not being recycled? Mr. Jordan said he would defer to the Board on questions like this. Mr. Barrett said you are basically indicating then that it would be a policy decision; from an economy stand point it is better to just treat it as municipal waste. You wouldn't be spending close to \$1 million. But what you are saying is if you want to serve the interests of recycling, it is going to cost us about \$1 million. Mr. Jordan replied that the yard waste program is by far the largest contributor to the recycling rate; we recycle significantly more tonnage in yard waste than we do in curbside recycling. It would have an overall impact this year on what our recycle rate is.

Mr. Williams asked if all eight municipalities enacted flow control, what would the rate be for the municipalities and Mr. Jordan responded that it would be around \$60/ton. And what would it be now instead of \$104? Well, it doesn't go into effect until next February but it could have gone to \$60 instead of \$80 if everybody had joined.

Mr. Barrett, to clarify, stated that it was very possible to have the reduction in rate without flow control because we need to negotiate a much better (private) rate. As we have been told, the industry is open and willing for that. He noted that he respected the point that Mr. Williams was making but it doesn't just have to be flow control; there is another way and he hoped that we were aggressively pursuing that. Mr. Williams stated that what he was hearing then was that the

municipal rate can go up high enough to give us the income and we could lower the municipal rate and Mr. Barrett responded that he felt that has always been the possibility; it never was flow control because we get all the flow, it is rate control and it is possible from what he has been told, and noted that we had been told here at the meeting, that the industry is willing to negotiate a higher commercial tip fee in return for acknowledgement that some of the reasons we have a very high tip rate is not necessarily related to the industry. So there might be a differential, but they are willing to move up.

Mr. Hadfield stated that SPSA had contacted each of the contract haulers and made a proposal to them for a new contract that would start July 1, 2008. It would have the effect of a slight increase in the commercial rate; a pretty significant decrease in the municipal rate for the whole year, not just the last five months. We have heard back from two of the eight; one of whom will come into the office for discussions next week one day. We've not heard from the others.

Mr. Bennett stated that he hoped that we would continue to pursue that and see what could be worked out, what can be brought forward in the negotiation, how close they can come to the municipalities' tipping fees. One thing he believes we need to look at is adding on any new programs; we need to weigh that and be sure that anything we do would be something that would not cost in the long run and would be able to close out in 2018 because that is what we are looking at. If we start a new program, let's be sure it is something we really need to do. Mr. Barrett stated that he concurred with that statement and hated to bring this up but with the ICC looking at it (budget), each of the cities would be providing what the employee pay raises are for the cities. He noted that the employee raises for the City of Virginia Beach are less than 3% and he would hope that we would look at that. Mr. Bennett stated that we will have to look at everything this year just as all the cities and the state are as to how we are going to manage our budget, noting that this year will be tight and we will need to stay within our bottom-line.

Mr. Collins said he also concurred with these statements especially with regard to starting new programs; that we need to hold the line on that. We also need to have a more concise explanation as to what the decreases in tonnages and projection of continued decreases, why we are having increases in operating expenses and various replacement costs and things. We need to have a grasp and not a headline of "Tonnages Down; Costs Up". Mr. Williams said that the tonnages are down but wondered about the impact of recycling on these amounts and Mr. Hadfield stated that some of it could be attributed to that especially in Franklin and Norfolk. Mr. Hadfield stated that the last bullet relating to the final budget in April is perhaps more aggressive than reality will allow. We will have an interim report in April but stated that with the review we need from the ICC and the Business Advisory Council, the final budget proposal will not come back [to the Board] until May.

Mr. Bennett also commented on the fact that the budget included hiring of additional employees and said he personally felt this was something we really need to look at, noting that we just had a decrease and now we are going to back and increase.

### **ITEM NO. 3: PROPOSED CHANGES TO PRELIMINARY TIPPING FEE SCHEDULE**

The next item is a recommendation to adopt a resolution regarding the preliminary tipping fee schedule. A revised schedule was then passed out to the Board. Mr. Hadfield said the resolution in the agenda packet would establish the May 28th Board meeting as the date and time for the public hearing that is required on a preliminary tipping fee schedule and would also adopt the preliminary tipping fee schedule so it could be published in the newspaper as required by law. Mr. Hadfield then reviewed the schedule, noting that the revised numbers were highlighted in yellow and the un-highlighted number is the one that is currently in force. The proposal is for \$104; the current is \$100 (municipal tipping fee rate) and you will see these changes on down the list. He also pointed out that there were a couple of places where we show we will eliminate and the thought is that we would just eliminate the entire line. For instance on ash material; we would just stop taking ash as of July 1, 2008. In fact, the budget proposal includes taking the ash that SPSA generates back to the Virginia Beach Landfill. We would eliminate Construction and Demolition waste disposal on a cubic yard basis and the one point that we missed is that C & D waste would be all on a "per ton basis", \$30 instead of the current rate of \$22. In the next column under recycling you see the different rates for each of the recycling services and down under Household Hazardous Waste a rate increase for residential visits to our Household Hazardous waste program. Mr. Hadfield stated that when we publish the proposed schedule, we would not include publishing the current rate; the law requires that we publish the proposed rate and in the case of the municipal rate we would publish the rate of \$104. When we get to the public hearing, his understanding is that the Board can adopt whatever it chooses to at that time, either lower or higher or change a rate that is not in the schedule otherwise. Mr. Thiel, General Counsel, stated that this was correct; that the fee schedule would be advertised without the old rates on it, just the highlight rates and that there would be a public hearing as indicated and after the public hearing the Board has the absolute authority to change those rates to whatever rates they deem appropriate. He also stated that the Board had time to mull this over and receive the input from the public hearing before adopting the final tipping fee schedule.

Mr. Barrett, relating to Delegate John Cosgrove's question, stated that he was under the impression that when the board approved the C & D waste, that we were using the landfill space that had been closed out to municipal sanitary waste and commercial waste and so it was like a bonus to us. He said he recalled that when we decided to go more actively into that business, it essentially was using a part of the landfill that was like a bonus; that if we didn't use it for C & D we couldn't use it for anything else and so it was like a way for us to enhance our revenue at a time when we were really facing some serious revenue issues. We chose to do that and it provided that kind of bonus to us and asked if this was still the case today. Mr. Hadfield stated that that was the case when we started but probably two years after we began that we came back and suggested that we continue to take C & D into the landfill because it was a revenue source and the charge we were imposing then, even lower than the rate we are imposing now, was more than the cost of using up the space in the landfill. He added that he agreed with Delegate Cosgrove that to the extent that we can recycle anything will avoid taking it and that is part of the dichotomy that we as a public agency face. We ought to be in the business to try to help people eliminate disposing of stuff and recycle; we are also in "business" and so that conflict to want more to throw away more is counterintuitive to the public policy that we all aspire to.

For clarification, Mr. Barrett restated that at some point it changed over from a “bonus” to just solid waste that we derived revenue from that just adds to our budget and Mr. Hadfield confirmed this.

Mr. Collins said that this was also his understanding of this explanation and was still of the opinion that C & D is taking up space that we could otherwise use for our municipal waste and he would like, as we go through this fee increase proposal, that we look at if we did not have the C & D, since the numbers are dropping, if it was eliminated how would that impact the proposal and how would it impact our flow control numbers for next year. Also, he asked about the line item on the fee schedule that says “SPSA Board of Directors Approved on 3-26-08” stating that if this is on the website it could be misleading if it is posted before 3-26-08. Mr. Hadfield stated that the resolution presented to the Board would be adopted today if they approve it but it only adopts a preliminary tipping fee schedule that still requires further action by the Board. Mr. Collins stated that with it already printed on the form before today it puts “the cart before the horse” if it is printed on there prior to today and that gives the perception that it was a “done deal”, suggesting that these little things need to be looked at inasmuch as we are trying to improve our image in the public eye. Mr. Hadfield stated that it was a practical matter so that, if approved today, Mr. Bennett would sign the resolution and if we did not have that on the form now, then we would be using a document that was different than the one included in the agenda packet. Mr. Collins agreed with the process Mr. Hadfield outlined but reiterated that one of the things that management did discuss was trying to improve the image that the public has of SPSA and if he looks at that and take off his SPSA hat, he would think that was already approve and it was not even March 26th yet and asked that Mr. Hadfield take that under consideration. He also asked that these numbers we are look at, if we vote on this today, as our attorney has laid out, we are not approving these numbers at all because we still need to get information back, but these are just proposal numbers subject to additional budget information. Mr. Bennett confirmed his statement and said that even if we pass the resolution today, we cannot approve the budget until after the public hearing and even with that you can still go back and amend those rates if the Board decides that is what they want to do. Mr. Thiel stated that Mr. Hadfield was going to revise the tipping fee schedule anyway to delete the un-highlighted numbers and when he has that he can put a statement on it to the effect of “This preliminary tipping fee schedule approved ....” or words to that effect so it would be clear and there was no doubt about that.

Mr. Collins also stated that with The Honorable Delegate John Cosgrove in the audience today it was an opportunity to share some information with him to be an advocate for things that we might need legislatively as necessary to enhance the operations here at SPSA, noting the one thing that we had been dealing with is the wetlands or DEQ type issues and if we need some legislative action it would be good to have him on our side. Mr. Bennett acknowledged that he was sure Mr. Hadfield would call on Delegate Cosgrove or any of the other members should he feel he needed their assistance and welcomed Delegate Cosgrove to the meeting to hear all of material they are going through today.

Mr. Barrett (VB) made a motion to approve the resolution adopting the preliminary tipping fee schedule which was seconded by Mr. Williams (NO). All present except one voting yes; opposes one (Mr. Collins – CH); motion carried by majority vote.

#### **ITEM NO. 4: PRESENTATION OF PROJECTED SCHEDULE AND BUDGET FOR INITIAL CONSIDERATION OF SALE OF WASTE-TO-ENERGY**

Mr. Hadfield stated that Walt Hunter, Deputy Executive Director for Administration and Treasurer to the Board, had been working with the prospect of selling the waste-to-energy system and receiving proposals and he asked Mr. Hunter to address the matter and come forward to present to the Board.

Mr. Hunter said that the agenda note slightly overstates what he will actually be able to talk about today stating that he will not be able to talk about a specific timeline and he would not be able to talk about an explicit budget and would explain why later. He indicated that as they go through the budget process the Board will remember in the budget presentation there is \$200,000 allocated for costs that is just a very preliminary number and we don't really know what that will be. The reasons it is difficult to come up with an actual timeline at this point are several. One is that the process doesn't begin until a proposer puts a proposal on the table to SPSA and we don't know when that will be; we have had a lot of interest expressed in terms of the plant, but as far as the process starting, we won't know until we actually receive a proposal.

The second element on the time line is there are a number of issues once that proposal is received that will have to be dealt with and there are a couple of large uncertainties. One is that it will require approval by the Navy for an assignment of all the various contracts and so forth. That time period is also very uncertain and it is also out of SPSA's control. The other issue is that we don't know what the complexity of any proposal may be and that could extend the timeline. As far as the budget, certainly a lot of the costs will be associated with legal fees in terms of negotiating the contract and addressing the legal issues that will come up upon receiving a proposal. Until we actually see a proposal and the complexity of it, it is very difficult to estimate what the legal fees might be.

Mr. Hunter then walked through the process in terms of how it would work relative to the PPEA guidelines that the Board adopted last November. Essentially what happens is that when the first proposer submits an unsolicited proposal, they will do that along with a \$10,000 check and that is to cover costs for the conceptual review phase. At that point, SPSA will engage the services of professionals to do the analysis unless the Board has a resolution not to do so, noting that all of these things he was discussing were all contained in the guidelines that were adopted by the Board. SPSA evaluates the first proposer's proposal and decided whether to accept; at that point the \$10,000 fee becomes non-refundable and at that point also the first proposer must also send a copy of the proposal to the City of Portsmouth within five days. The reason for that is, under the definition of this law, the City of Portsmouth is an interested party and has to receive a copy of any proposal as well. At that point, SPSA will advertise the fact that it has received a proposal for a minimum of 45 days. That advertisement has to say that SPSA has accepted the proposal in accordance with the PPEA guidelines; ACCEPTED IT, done nothing more than accepted it, intends to evaluate the proposal, may negotiate an interim or final agreement with the first proposer and will accept for simultaneous consideration for the designed period (45 days) any competing unsolicited proposals. So that is a 45-day period of advertising and 45 days open for others to respond so we are talking about a 90-day period effectively. And within that designated acceptance period, SPSA continues to evaluate the first proposers proposals, other

proposers can submit their proposals; they will also include a \$10,000 fee and at that point their fee is non-refundable right out of the gate because the process has been engaged. After that occurs, we go through and conduct a conceptual review. As a practical matter, the PPEA and this is based on legal advice that we are getting from Willcox & Savage; the PPEA will work best with a competitive negotiation instead of a competitive bidding process. With SPSA having to make findings set out in the PPEA guidelines, the competitive bidding process becomes very, very difficult. Some of the advantages to competitive negotiations are the probable scope and complexity of any proposal that is being given to us. The risk-sharing including guaranteed costs or completion guarantees and that sort of thing make it very difficult and the third thing is an increase in funding, dedicated revenue sources and that sort of thing that are included in the proposal. The bottom line is it is likely to be a very complex proposal that will not lend itself to bidding per se, but more of a competitive negotiation which is acceptable under the Virginia Code.

Moving through the conceptual phase we then go to the detailed review phase. The proposer or proposers that are selected by SPSA can provide additional data at that point. There is a formula for an additional fee that will have to be paid and with the size of this transaction that fee will be \$20,000; generally, those fees will be non-reimbursable. At that point after going through that layer of analysis and the detailed review phase, we would then move on to a single proposal where we would enter into either an interim or a comprehensive agreement with the intent of negotiating the final form of a contract. So that is the process that we will be stepping through as we go through this; very difficult to put specific times frames on that and also very difficult at this point to put a specific dollar amount on what the cost to the Authority might be.

Mr. Williams (NO) asked a question however it was inaudible; Mr. Hunter's response was, "Nobody has gotten to that point yet. What we've had is an expression of interest from between 6 and 8 of varying degrees of interest. Generally speaking, the ones that are interested seem to be very interested." Mr. Williams responded, "They keep coming back for more information...?" Mr. Hunter, "Yes; we've been providing information informally through the process."

Mr. Hadfield stated that this was information only at this point and that staff would keep the Board informed. Clearly, as Mr. Hunter indicated, this process doesn't begin until and unless we get the first proposal.

\* Mr. Thiel pointed out here that the single sheet agenda note pages for Items #5, 6 & 7 inadvertently and erroneously shows "Closed Meeting" as a heading; please delete that wording as it is not correct.

## **ITEM NO. 5: STATUS REPORT ON CELL VII PERMITTING**

The status report on Cell VII is something that we are starting today and will keep you up to speed and do this over the next several months; there may not be changes from one month to the next on what's going on with approval and what not but as Mr. Barrett (VB) pointed out earlier in the meeting, this is probably THE most important thing that is in front of us right now and we want to keep you up to speed with what we are doing.

Mr. Hadfield that indicated that Scott Whitehurst, SPSA's Superintendent for Environmental Management, was here to give a presentation on the status of the permitting and called him to the podium.

Mr. Whitehurst thanked Mr. Hadfield and the Board and said he appreciated the opportunity to update them regarding the progress with the permitting of Cell VII. Mr. Whitehurst then went through his PowerPoint presentation; a copy of which is herein attached as Appendix B.

Mr. Whitehurst also discussed the issue with regard to the well and the Green Pines Motel and the news from the Department of Environmental Quality (DEQ) that Mr. Hadfield discussed earlier in the meeting. Mr. Whitehurst stated that at this time we were considering that we could move forward and are expecting to hear from DEQ through a letter within the next few days.

Mr. Hadfield stated that we expect to have construction of Cell VII awarded in about April 2010. We would expect approval on Part B in November 2009 and this kind of project starting construction in the winter months does not work very well so we would look at starting construction in the spring of 2010 and that would give us over the winter time to deal with any changes that came from the Part B construction documents. That would allow, as we see the schedule now, Cell VII to be complete right at the end of 2011 so that there is a little bit of overlap and clearly we will do whatever is prudent to increase the overlap; to increase the insurance. The area that we have the most concern about in terms of schedule is the permitting process, and less concern, though some concern about the construction process. That seems to be a little more in control of an owner than the permitting process, but he indicated that he would be keeping the Board informed as we move through this.

Mr. Barrett (VB) stated that that was his concern as well having had some experience with DEQ, although from a private stand point, noting that the degree of priority you get as a private person is pretty lacking and in this case he hoped that the application of this magnitude for this region gets attention. In order that we insure that it seems to him that we ought to move as quickly as is prudent and he assumed that this was the fastest schedule in concert with quality that you can adopt. If it is not, that is what our intent ought to be and suggest that it may be prudent to have a briefing of the Chief Administrative Officers from our eight municipalities and to develop a political strategy if we need it; if for some reason the process doesn't move along as we hoped, to get up to speed to get people to lobby for it, that takes time so given the critical path nature of this approval, he felt we ought to be ready and we ought to give some time to adopting an administrative strategy with the CAO's and put together a political strategy with selected delegates and the senior person from each participating jurisdiction just to let DEQ know how important the timely review of this application is. He then said he hoped none of that is necessary, given the cost we saw last month of the insurance, for the gap, we need to be on this as tightly as we can be. Mr. Bennett agreed. Mr. Hadfield said that one of the concerns that he has is the funding DEQ has on the state budget. They like all state agencies are being asked to do more with less and as he understands it the state budget that was recently adopted will cut funding to DEQ even more than it is and what he understands from DEQ is that that cut in their funding will affect two of the three programs that they have. The three programs being solid waste, water and air; the air program is almost entirely funded by the federal government so

there will be no impact on that to speak of. That leaves the solid waste and water programs to get affected by the budget cuts and we are in that mix. Mr. Collins (CH) stated that what Mr. Hadfield stated was right but that he was of the belief that this being a public agency, the state is here to do the good for the Commonwealth of Virginia which we are a part of and the fact that there has been decreases in funding does not mean that we should get our core work done any worse or any less; this still has to go on. This means that people at the state level have to do the things that we are doing at the local level; we have to re-tool and we have to find a way and we often do find a way to get that same job done and doing it even better. He also stated that this is why he is of the opinion that we should pay our people and pay our people at the correct rate to let them know that they are appreciated and is another reason why it is good that we have Delegate Cosgrove here so that he can hear that we are first hand are very concerned about the movement of this through the DEQ process. We are alerted to move forward and it is very important because this says that we are going to fill up a cell in 2012 in the same year we are going to bring one on-line and that leaves very little margin, actually no margin for error. Mr. Collins agreed with what Mr. Barrett said and stated that he was not going to accept the fact that we have had budget cuts as a reason for not getting something done.

Mr. Hadfield stated that the other issue that was related to Cell VII that is not here but that he wanted to talk to the Board about during Closed Session is transfer stations. You will recall that the CUP from Suffolk for Cell VII requires two transfer stations to be constructed, one to be opened simultaneously or before Cell VII opens; the other one within 18 months after when Cell VII opens. While that is not yet a DEQ process, it is a piece of the whole puzzle that we need some discussion about in Closed Session.

## **ITEM NO. 6: PROPOSED CHANGES TO SOLID WASTE MANAGEMENT PLAN**

Mr. Hadfield stated that Scott Whitehurst will present this proposed revision as well and said that the Board may recall several years ago they adopted some procedures related to changing the Regional Solid Waste Management Plan (RSWMP). The state requires each city, county and town in Virginia to have a solid waste management plan; the state also allows for communities to come together to have a regional plan. In our case, all sixteen counties, cities and towns came together and designated SPSA as the regional planning agency for solid waste. Sixteen cities, counties and towns; you know that there are eight members of this Board, there are also six towns in Southampton County and two towns in Isle of Wight county. Each of which had to designate someone other than themselves if they wanted to participate and each of them did designate SPSA. We developed the RSWMP, you adopted some procedures to amend the Plan as it went forward. We have amended the Plan or sent three amendments to DEQ for approval, one of which has been approved, two more are pending approval. In the mean time, the state has changed its rules as to what constitutes a major amendment versus what constitutes a minor amendment. At this point, from the states rules, the only thing that is a major amendment is a landfill; all other changes to the Plan are minor amendments and the procedures that you adopted prior before say essentially that the Plan can be changed by staff for minor amendments; no public hearing, no public participation, no involvement by the Board. In thinking about the changes that may be coming, the new facilities, we think that a more transparent public process

is appropriate. Mr. Hadfield then called upon Mr. Whitehurst to give his presentation which is herein attached as Appendix C.

Mr. Whitehurst, acknowledging that Mr. Hadfield had discussed much of his presentation said that since 2004, our RSWMP has provided a disposal strategy and management strategy for our region and that we are still waiting for word, which we feel will be a positive response during the next few days for Amendments 2 & 3. Staff has seen an apparent need to strengthen certain areas of our Plan, one being our staff turn-around time in addition to our public hearing procedures and application review procedures. He recognized that SPSA has been designated as the region's solid waste plan authority and we do have authority to include or preclude a recommendation for a facility to be added to the solid waste management plan. With that we are recommending to the Board a new application review criteria to strengthen our ability to make decisions. We have seen a need to formalize and strengthen our amendment application procedures and are looking at a defined turn-around time from SPSA staff to applicants. Our new application procedures and related documents which we are proposing today will be available and visible on the SPSA website. We are recommending increased public participation in our process which will now not only include major amendments but also some minor amendments. We are asking that applicants demonstrate a need for the facility and all these changes that we are recommending today are mirrored in the new application. A significant portion of what we are recommending today is that the applicants provide a determination of need and include with that supporting sources and documents for SPSA staff to review. Mr. Whitehurst stated that what the Board needed to keep in mind is that this will only be necessary; the determination of need, if a facility is not already included in our SWMP. We believe that a new review and determination of need procedures will allow staff to evaluate the need for the facility; again we are asking that the applicants include their data sources and we will be making a recommendation to the Board to either include or preclude the facility. We recommend that the facility be approved.

Mr. Hadfield stated that we have an application already in house to change the RSWMP to include a new facility. It is my proposal that that application, because it has come in under the terms of the existing procedures be grandfathered under the existing procedure which would mean that the staff would make the decision. It is for a C & D recycling facility in the City of Chesapeake and the City Council has already granted a Use Permit for this facility.

Mr. Barrett (VB) stated that he felt that he did not understand why we even have this requirement and that it is the biggest waste of time and resources he has ever seen but given that we are required to do it will just nod his head and move on. Mr. Harrell (CH) asked for clarification on what additional authority the Board was giving staff and Mr. Hadfield responded that it would allow staff to make the determination of need and either include it or not include it in the plan. Mr. Thiel, General Counsel, stated that from the legal standpoint, this was the correct way to operate inasmuch as the application was submitted these new procedures were not in place. Mr. Cheliras (SPSA Director of Waste-to-Energy) pointed out that it was important to understand that what Mr. Whitehurst has presented is an amendment to the plan that details the procedures for affecting that amendment but there is no additional authority being granted to staff per se; staff does not have the authority to say "yes" or "no". Staff merely reviews it, does basically the leg work for you and then the Board has to approve or disapprove the proposal. Mr. Whitehurst

stated that this would also apply to future applicants and not just the one. Mr. Williams asked if there was an appeal process if we turn down an applicant and Mr. Whitehurst stated that we currently have not written an appeal process into the plan. The other important thing is that we say now we are going to advertise certain types of minor amendments because “minor” now are things we all used to consider “major” before and that would be another distinction between the pending application. We are basically saying that this person who has already submitted his application and been approved by the City of Chesapeake go back and advertise again when it is sitting there waiting for us to evaluate. Should another new one come in now, we would advertise it, have a public hearing, and so on as outlined by Mr. Whitehurst. Ultimately DEQ reviews our actions; what happens after that the law is not clear. What DEQ has done before is to respect decisions made by this body as wearing its solid waste management hat.

Mr. Williams (NO) made a motion to approve the revisions to the Regional Solid Waste Management Plan as presented which was seconded by Mr. Smith (PO). All present voting yes; opposes none; motion carried.

#### **ITEM NO. 7: CHANGE TO DOMINION VIRGINIA POWER CONTRACT**

Mr. Hadfield stated that we have gotten proposals for the purchase of SPSA’s electrical output. Current rate is \$52.25/MWH. We have included \$2 million additional money in the budget for next year anticipating selling power without changing how we generate power but just selling it for a better price. We haven’t gotten all the details completed yet; Virginia Power has agreed to three one-month extensions but if we come back to you next month and everything is ready then you could terminate effective the 1st of May and we could enter into a new contract then the 1st of August or 1st of September or October if we were that much delayed. My recommendation to you is that you approve the amendment to Virginia Power contract to give us that flexibility.

Mr. Barrett (VB) made a motion to approve the Amendment to the Virginia Power contract; the motion was seconded by Mr. Williams (NO). All present except one, an abstention by Mr. Smith (PO) voting yes; opposes none; motion carried.

#### **ITEM NO. 8: STATUS REPORT ON EXECUTIVE DIRECTOR SEARCH**

Mrs. Ivory stated that she had received the draft recruitment brochure from Jim Mercer, The Mercer Group and had forwarded it to the full Board and the Deputy Executive Directors for review and comments. Following the deadline for returning comments, the information will be consolidated and forwarded to Mr. Mercer for his use in finalizing the document. Mr. Mercer will then develop a color layout to accompany the verbal information and a timeline for his plan of action. Mr. Bennett asked the Board to forward any comments they had to Mrs. Ivory no later than today so she could keep this process moving.

#### **ITEM NO. 9: TREASURER’S REPORT**

Mr. Hunter came forward to give the Treasurer’s Report. On the Budget Summary, he noted that the report this month was a continuation of the same things that have been reported for the past several months; focusing on Line 29 the Total Revenue, we are running behind budget

approximately \$3.5 million. About \$3.3 million of that is because of reduced tipping fees which you see on Line 10; it is a combination of municipal tipping fees and what we are getting from the private haulers. Tonnages continue, we are seeing about a 5-year trend now in reduced tonnages, and we are seeing that again this year. The revenue issue we have is a significant one; being \$3.5 million behind is a significant amount of money creating a lot of cash-flow issues. On the Operating Expense side, we are essentially the same place we were last month; we are running about \$600,000 over budget but we expect that we will be able to pull that back in just due to some timing of expenses during the year.

Mr. Johnson (SO) asked what the plan was to cover the revenue shortfall if that trend continues through the end of the fiscal year. Mr. Hadfield stated that we were still working through that and trying to develop a plan and indicated that he would provide that information by next month.

Mr. Collins (CH) made a motion to accept the Treasurer's Report which was seconded by Mr. Smith (PO). All present voting yes; opposes none; motion carried.

#### **ITEM NO. 10: STAFF REPORT ON BUDGET VARIANCES**

The budget variance report was in the agenda packet and there were no questions on this item.

Mr. Barrett (VB) stated that, relative to the private hauler contracts, Mr. Hadfield had mentioned that he had met with each of them and asked for clarification on that comment. Mr. Hadfield stated that there were eight current private haulers and he had talked with each of them over the last six weeks or so. About two weeks ago, maybe three, we sent to them a contract proposal in the form of a term sheet. Subsequent to that he has heard back from two of them; the cover letter stated "let's get together and talk about it" and two have responded. Mr. Barrett asked if in the context of that term sheet were we offering them all the same uniform commercial rate so there is no issue with them about getting a different rate. Mr. Hadfield stated that this was correct.

Mr. Thiel, General Counsel, stated that there was a published request for a Closed Meeting which we would be holding but there was also a request for one more item which Mr. Hadfield will read and the Chairman is asking for approval of this request which was then read by Mr. Hadfield.

#### **CLOSED MEETING**

#### **ITEM NO. 11: REQUEST FOR CLOSED MEETING**

Mr. Collins made a motion to approve the following two Closed Meeting requests:

*(1) A request is made for a closed meeting of the Board in connection with SPSA's contracts with private haulers, member localities' adoption and enforcement of flow control ordinances, the defense of litigation related to adoption of such ordinances, and various contracts impacted by such action, pursuant to: (a) Virginia Code Section 2.2-3711(A)(7) for the purpose of consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel and pertaining to probable litigation where such consultation or briefing*

*in an open meeting would adversely affect the negotiating or litigating posture of the Authority; and (b) Virginia Code Section 2.2-3711(A)(29) for the purpose of reviewing possible 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) A request is made for a closed meeting of the Board in connection with matters related to obtaining a permit for Cell VII at the Suffolk landfill, pursuant to: (a) Virginia Code Section 2.2-3711(A)(7) for the purpose of consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel; (b) Virginia Code Section 2.2-3711(A)(29) for the purpose of negotiation and award of a public contract where competition and bargaining are involved and where discussion in open session would adversely affect the bargaining position or negotiating strategy of the Authority; and (c) Virginia Code Section 2.2-3711(A)(3) involving a consideration of the acquisition of real property for a public purpose where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the Authority.*

Said motion was seconded by Mr. Smith (PO); all present voting yes; opposes none; motion carried.

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 of the Closed Meeting as written in the agenda packet and resume the Open Meeting was made by Mr. Collins (CH) and seconded by Mr. Smith (PO). All present voting yes; opposes none; motion carried.

## **ITEM NO. 12: ACTIONS ARISING FROM CLOSED MEETING**

There were no items requiring action as a result of the Closed Meeting.

## **CONSENT AGENDA**

## **ITEM NO. 13: MINUTES FROM REGULAR MEETING OF FEBRUARY 27, 2008**

The minutes of the Regular Board Meeting of February 27, 2008 were presented for approval. A motion to approve the minutes as presented was made by Mr. Collins (CH) and seconded by Mr. Wrenn (FR). All present voting yes; opposes none; motion carried.

## **INFORMATIONAL ITEMS**

### **ITEM NO. 14: PERFORMANCE INDICATORS**

There were no questions on this item.

### **ITEM NO. 15: PUBLIC INFORMATION ACTIVITIES**

An overview of public information activities was placed at each member's seat.

## **OLD/NEW BUSINESS**

Under New Business, Mr. Bennett stated that he has received quite a few complaints regarding litter on Rt. 58 and noted that we need to do something with our trucks. His reports had included the truck numbers and said we need to work on ways to improve them and improve things. Mr. Bennett asked for a report back on what we would be doing to remedy this issue.

## **ADJOURNMENT**

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

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John S. Hadfield, P.E., BCEE  
Executive Director

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