

# MINUTES OF THE BOARD OF DIRECTORS OF THE SOUTHEASTERN PUBLIC SERVICE AUTHORITY OF VIRGINIA

June 23, 2021

The Regular Meeting of the Board of Directors of the Southeastern Public Service Authority (SPSA) was held at 9:30 a.m. in the Regional Board Room at the Regional Building, 723 Woodlake Drive, Chesapeake, Virginia. The following members were in attendance or as noted:

Mr. John Maxwell	(CH)	Mr. Earl Sorey	(CH)
Ms. Sheryl Raulston	(FR)	Ms. Amanda Jarratt ( <i>absent</i> )	(FR)
Mr. Dale Baugh	(IW)	Mr. Randy Keaton	(IW)
Mr. John Keifer	(NO)	Mr. Richard Broad	(NO)
Mr. C.W. "Luke" McCoy	(PO)	Mr. Burle Stromberg	(PO)
Mr. Mark Hodges	(SH)	Ms. Lynette Lowe	(SH)
Mr. David Arnold ( <i>absent</i> )	(SU)	Mr. Albert Moor	(SU)
Mr. Thomas Leahy	(VB)	Mr. L.J. Hansen	(VB)

(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 Alternate Ex-Officio Members Mr. Chad Edwards (FR), Mr. Michael Etheridge (IW), Mr. Greg Martin (CH), Mr. Gary Kelly (VB), and Ms. Trista Pope (NO), SPSA executives, Ms. Liesl R. DeVary, Executive Director and Treasurer, Mr. Dennis Bagley, Deputy Executive Director, Ms. Tressa Preston, Secretary and Executive Administrator, and Mr. Brett Spain, General Counsel.

To encourage social distancing during the COVID-19 pandemic state of emergency, through the meeting notice, members of the public were also invited to listen to and view presentations displayed at the meeting by registering for attendance using a GoTo Webinar teleconferencing platform. Members of the public were also invited to speak at the SPSA Board of Directors Meeting during the designated public comment period at the beginning of the meeting by registering in advance with the Secretary through contact information published in the meeting notice. Members of the public were also invited to listen to the SPSA Board Meeting via toll-free telephone.

## 1. CALL MEETING TO ORDER

Mr. Keifer, Chairman of the Board, called the meeting to order at 9:30 a.m. and welcomed Mr. Hansen and Mr. Kelly as the new Ex-Officio and Alternate Ex-Officio members representing the City of Virginia Beach.

## 2. PUBLIC COMMENT

Chairman Keifer recognized Mr. Kevin Cone of McCarthy Tire who had registered with the Board Secretary to make a public comment regarding the proposed Truck Tire Management Program contract award included in the published meeting agenda. Mr. Cone's comments were as follows:

"Good morning. My name is Kevin Cone. I'm with McCarthy Tire here in Norfolk, I came this morning just to make everyone aware that we are protesting the award of the truck tire

management program to Colony Tire. The intent to award has been sent out to us and there are several reasons, but the most notable is that Colony has proposed a nonconforming product in their bid, which in the RFP was specified certain criteria that the tires need to meet and the product that they have proposed does not meet that specification. It is our position that that should deem them unresponsive and the contract be awarded to us. And we just want to make that known before any decisions were made on the truck tire management program.”

Mr. Cone offered copies of McCarthy Tire's bid protests to the Board and Chairman Keifer asked that they be left with the Board Secretary for review. He also assured Mr. Cone that the protest would be considered closely. Chairman Keifer thanked Mr. Cone for his comments.

Ms. Preston reported that she received no other requests to make a public comment.

### 3. **CHAIRMAN'S COMMENTS**

Chairman Keifer asked for a report from the Nominating Committee. Mr. Keaton, Chair of the Nominating Committee, reported that he and the other members of the Committee, Mr. Broad and Mr. McCoy, looked at various people to be considered for Chair and Vice Chair, reached out to them, and they have agreed to accept the nomination if nominated. Mr. Baugh was recommended for Chair and Ms. Raulston was recommended for Vice Chair. It was noted that, as has been customary, staff will be nominated to take the rolls of Treasurer and Secretary, with Ms. DeVary and Ms. Preston continuing in their respective positions. A motion to nominate the recommended slate of officers will be entertained at the July Annual Board Meeting. Chairman Keifer also reminded the Board that any other nominations would be considered at that time, as well.

### 4. **APPROVAL OF MINUTES**

The minutes of the May 26, 2021 Board Meeting had been distributed. Chairman Keifer asked if there were any additions or changes and there were none.

**Mr. Broad moved, seconded by Mr. McCoy, to approve the May 26, 2021 minutes of the SPSA Board of Directors as presented. The motion was adopted by a unanimous vote in favor.**

### 5. **EXECUTIVE DIRECTOR UPDATES**

Ms. DeVary was pleased to once again report that SPSA staff continues to do a great job keeping operations running smoothly. Ms. DeVary drew the Board's attention back to the May 26, 2021 minutes and mentioned that in her May Executive Director's Report there was a mistake regarding the date of the Wheelabrator steam contract extension with the Navy. The extension is for 17 months and the expiration date is June 24, 2024. The minutes reflect the correct contract date and note that that the presentation contained an inaccuracy.

Work continues on finalizing the proposed amended landfill gas agreement with Mas Energy, which was discussed in closed session at the May Board Meeting. Several exhibits need to be updated since the agreement was first written in 2010. Ms. DeVary hopes that the final product will be ready to present at the July meeting.

The Cells VIII and IX permitting process continues, but the Army Corps of Engineers and VHB canceled the most recent monthly meeting because they did not have new information to report

at this time. Ms. DeVary was happy to report that the contract with VDOT on the flyover project has been fully executed and that she has received a signed copy. Monthly meetings continue and the project is progressing. The survey has been completed and preliminary design work has begun.

Mr. McCoy asked to be recognized by the Chairman so that he could congratulate Ms. DeVary and staff on the negotiation of the flyover project. Mr. McCoy commented that this has been a difficult task that has taken many months to achieve and he would like to commend Ms. DeVary and her staff on a job well done. Chairman Keifer thanked Mr. McCoy for his appropriate recognition of this accomplishment. Ms. DeVary thanked Mr. McCoy, as well.

Ms. DeVary went on to remind the Board that last year SPSA applied for RSTP funding for the flyover project and was awarded \$500,000 in funding, which would not be available until 2028. At subsequent Board Meetings it was discussed and determined that it would not be in SPSA's best interests to accept federal funding, particularly funding that would only represent a small portion of the project cost, due to the additional conditions that accompany the acceptance of federal funding. Ms. DeVary has signed a letter provided by the HRTPO essentially returning the \$500,000 allocation back to the HRTPO. This letter will be presented to the HRTPO board in July.

The design-build contract has been executed and staff has met with the contractor. Due to construction pricing, they have yet to find additional savings, but Ms. DeVary is hopeful that as the process moves along, reductions will be seen. SPSA will issue the notice to proceed as soon as the performance and labor and materials bonds have been received. The next meeting with the contractor is scheduled for July 8<sup>th</sup>. SPSA has been notified that the steel-framed buildings the contractor has ordered are on a three-month delay, but the contractors are still confident that they can meet the completion date of December 30, 2022.

Mr. Bagley presented the operations report noting that 30,164 tons were landfilled, which is an increase of about 10,000 tons from the previous month. 800 of those landfilled tons were waste that was diverted from the RDF plant when they were experiencing various operational issues during the reporting period. These diversions resulted in an extensive amount of additional transportation. During the reporting period, a little over a million gallons of leachate were sent to HRSD, which was a decrease of almost half a million gallons from the previous reporting period. This variance is due to weather and other operational changes designed to decrease leachate production. 845,200 gallons of leachate were pumped to HRSD at a flow rate of 18.9 GPM or 94% of the allowable flow. Mr. Bagley reminded the Board that this is a metric that staff is watching closely. SPSA is permitted to pump 20 gallons of leachate per minute under the current agreement and the more leachate that is pumped, the less that has to be hauled. While it will be a challenge to reach 100% allowable flow, staff will strive to achieve that goal because less hauling results in less overtime and reduced liability due to fewer tankers on the road.

The new tire shredder is performing as expected and staff is very pleased. They are processing 125 tons of tires a day, whereas optimal processing for the old tire shredder was 40 tons per day. Mr. Bagley informed the Board that the large pile of tires they saw in the video shown during the May meeting is gone and staff is able to process what comes in each day. Staff is also seeking new sources for tires now that they can accommodate greater numbers of tires each day. 92% of ash received was suitable for alternative daily cover. Though Mr. Bagley is sure that WIN Waste Innovations will report they are working to improve that percentage, he notes that it is a very good number and much improved from past years. Mr. Bagley reported one odor complaint during the reporting period, which was responded to immediately and

ultimately determined to be an odor from the coffee plant to the west of the Regional Landfill, as has been the case with the previous three complaints. Staff always takes any complaint seriously, acting as soon as they get the report by visiting the resident and assessing the situation. The resident is given the mobile phone numbers for the Landfill Manager and Mr. Bagley himself so that they can be informed of any issue, day or night.

Last week was Waste and Recycling Worker's Appreciation. The pizza provided for employees at each location and the "Thank You" signs that were hung outside of facilities were well received by staff. Mr. Bagley stated that SPSA's success is based wholly on the level of work provided by staff and that leadership is incredibly appreciative of them and all they do. Mr. Bagley offered to answer any questions or respond to comments.

Mr. Baugh asked about the process used to measure and quantify odors when a complaint has been received. Mr. Bagley responded that staff will go to the residence to confirm that an odor is present and get details from the resident. Much information is gleaned from wind direction, as the source of an odor is likely to be directionally related. Staff will then trace the source to the best of their ability using the methods available to them. Mr. Bagley also noted that the fact that responses are handled in person goes a long way in assuring residents that their concerns are being taken seriously. Chairman Keifer asked if there were any other questions or comments, but there were none.

**6. WIN WASTE INNOVATIONS PORTSMOUTH MONTHLY REPORT**

Mr. Clint Stratton presented the WIN monthly report electronically.

**WIN Waste Innovations -  
Portsmouth**

June 2021 Report to SPBA Board



Meeting SPSA's mission to provide safe and environmentally sound disposal of regional solid waste



WIN Waste Innovations Portsmouth  
May 2021  
Actual Operational Data



Hot Refuse Received			Total Refuse Processed			Total NP Diverted			Ash Shipped		
Actual	Plan	Act-Plan	Actual	Plan	Act-Plan	Actual	Plan	Act-Plan	Actual	Plan	Act-Plan
35,296	55,323	(19,997)	42,248	55,005	(12,757)	6,721	6,147	574	12,113	15,675	(3,562)
Driven by overwears due to USDT			Driven by unfavorable boiler USDT Superheater failure & ID fan rotor on Boiler #4			Driven by unfavorable incinerator incinerator to plan			Driven by unfavorable processing		
Steam Sales			Boilers Unscheduled Downtime			TID's Unscheduled Downtime			Net MMW Sold		
Actual	Plan	Act-Plan	Actual	Plan	Act-Plan	Actual	Plan	Act-Plan	Actual	Plan	Act-Plan
40,928	37,362	3,566	637	142	(495)	59	0	(59)	14,005	19,369	(5,364)
Slightly elevated this period			Driven by Superheater failure on Boiler 1 and ID fan rotor on Boiler 4. ID fan has been repaired and Superheater was changed but not in 6th June						Driven by unfavorable processing and USDT		

- Includes 1,699 tons of non-qualifying residue delivered to landfill, qualifying residue 91.75% for May
- Waste delivered by SPSA to RDF: 40,945 tons; Boiler availability - 72.1%; Turbine Generator availability: 97.4%; Ash Screen availability - 99%
- 0 OSHA Recordable Accidents this period; 1 for the YTD; 1 environmental incident and 0 citizen complaints
- Boiler 4 ID fan rotor repaired and Boiler 1 Superheater changeout completed in early June



Mr. Stratton offered to answer any questions. Ms. Raulston asked if WIN knew the cause of the notice of violation for wastewater discharges and if there was information on the corrective action plan. Mr. Stratton responded that there was a failed generator tube leak which resulted in ash entering the u-ditch and the settling pond. The corrective action includes installing filter cloths on all of the internal plant u-ditches, which has been completed. They will also begin taking upstream samples from the dirty sump, which leads to the settling pond. Cleaning frequency around ditches and pond inlets has increased and WIN is consulting with companies about a filter device that can be inserted into the entrance inlet of the settling pond. Ms. Raulston thanked Mr. Stratton for his response and there were no further questions.

## 7. FINANCIAL REPORT

Ms. DeVary informed the Board that, as of May 31, 2021, total revenues exceeded total expenses by approximately \$5.25 million as compared to \$5.28 million in the previous fiscal year. Tipping fees received year to date reflect an increase of 4.2% or approximately \$1.67 million as compared to FY 2020. Municipal waste tons are up approximately 4.2% or 29,803 tons as compared to last fiscal year. Commercial tons are up 3% or 4,786 tons as compared to last year. As of May 31, 2021, municipal waste tonnages were 457,798 as compared to 427,995 a year ago. Ms. DeVary commented that, as the Board could see on the graph, tonnages dropped by about 5,000 tons from April to May, which is unlike previous years. She went on to say that SPSA may not achieve 500,000 tons for FY 2021, but the total should be close to that number.

Ms. DeVary reported that total expenses fiscal year to date for the month ending May 31<sup>st</sup> were approximately \$44 million, compared to \$37.52 million in the prior fiscal year. Cash balances are at \$50.8 million, currently designated as \$6.7 million in the operating fund, \$5.9 million, the equivalent of 2 months' operating expenses, in undesignated fund balance, \$314,757 for unencumbered capital budget, \$2.5 million for the proposed HRSD force main, \$1.8 million for landfill expansion purchase orders, and \$33.5 million in the landfill expansion and closure fund. Ms. DeVary noted the change in landfill expansion purchase orders to \$1.8 million, which is the total that includes everything the Board has appropriated for landfill expansion purchase orders, with \$33.5 million remaining for landfill expansion. She then opened the floor for questions or comments, but there were none.

**Mr. Maxwell moved, seconded by Mr. Moor, to approve the SPSA financial report as presented. The motion was adopted by a unanimous vote in favor.**

## 8. CONTRACTS

The first contract for consideration was for landscaping services at the Chesapeake, Landstown, Norfolk, and Oceana Transfer Stations, as well as the operations center and transportation facility in Portsmouth and the SPSA side of the Regional Office Building. An IFB was issued and bids were received on May 27, 2021 for a one-year contract with four option years. Three bids were received and staff is recommending the current contract-holder, Coastal Lawn Services, which was the lowest bid, in the amount of \$77,825. The contract would be a fixed price paid in twelve monthly installments. Mr. Maxwell raised concerns about the variance in the bid prices, particularly that the highest bid was \$177,150. Given that Coastal Lawn Services is currently providing service, Mr. Maxwell asked if SPSA is pleased with their work. Ms. DeVary responded that, yes, staff is pleased with their service and that Coastal Lawn is very responsive.

**Mr. Keaton moved, seconded by Mr. Moor, to authorize the Executive Director to award a contract to Coastal Lawn Services for Landscaping Services, as presented. The motion was adopted by a unanimous vote in favor.**

The next contract for consideration was for the truck tire management program, which includes new tire purchases, retreading, recapping, mounting repairs, and service calls. An RFP was issued May 28, 2021 and opened June 9, 2021. This would be a one-year contract with four option years. Two bids were received and Colony Tire was ranked as the proposer that provided the best proposal for SPSA. The other proposer was McCarthy Tire. The estimated annual cost is \$166,808 and is based on unit prices because SPSA only pays for the services it uses. An intent to award was issued on June 15, 2021, with a 10-day protest period. Ms. DeVary noted that while a protest from McCarthy Tire was received late the previous evening, staff is asking that the Board authorize the Executive Director to award a contract to Colony Tire, pending the protest period and in consultation with General Counsel.

Chairman Keifer asked about the factors, in addition to price, that are involved in the evaluation process. Ms. DeVary replied that there are four areas of consideration, including the overall proposed plan of service, references from similar entities that have received similar services, turn-around times, and pricing. Chairman Keifer reminded the Board that there had been a protest to this contract award and asked Mr. Spain for his opinion on the best way to move forward. Mr. Spain responded that because the protest came in late the previous evening, he had reviewed the document, but not fully evaluated it and intends to do that with Ms. DeVary and Mr. Bagley to give it the consideration it deserves. Mr. Spain went on to say that the suggestion of staff is to work through the protest giving it due process. If the protest is valid, appropriate steps would be taken. If the protest is determined to be invalid, rather than coming back to the Board for approval to execute the contract, the request today is for the authority to move forward, pending the determination of the validity of the protest. Chairman Keifer asked if that authority would include awarding to the second bidder, should that be appropriate, or would that be brought back to the Board. Mr. Spain responded that he did not believe that was being requested at the current meeting and reiterated that he would need to look at the protest in more detail to understand if that was an option at this point.

Mr. Leahy asked if one of the proposers was currently providing service for SPSA. Ms. DeVary responded that Colony Tire has provided service for a number of years. Mr. Leahy went on ask what the consequences would be if the current contract expired before a new contract was awarded, inquiring about the possibility of extension of the current contract on a month-to-

month basis. Ms. DeVary replied that, while she did not believe that the current contract explicitly stated the possibility, that an extension might be allowable under the Procurement Act. Another possibility would be to proceed with each new tire purchase required during that time as an individual purchase, following proper procurement procedures. Mr. Leahy commented that, while he is sure staff has done good work in making their selection, it seems that in a situation like this time should be allowed to give the protestor a fair hearing and a fair evaluation of the protest.

Mr. McCoy commented that his recommendation to the Board would be to extend the existing contract for a 30-day period so that counsel has a chance to evaluate and then present the findings at the next Board Meeting, at which time the Board can make a decision based on the facts received. Mr. McCoy went on to say that it concerned him that a supplier SPSA has been using, and the materials that they have provided during that service, are now being called into question.

Mr. Moor asked Mr. Spain if the Board should enter into a closed session to discuss this matter. Mr. Spain responded that, certainly, if the Board was going to delve into an analysis of the legal issues at hand, he would recommend entering closed session, but that the discussion thus far had not warranted a closed session. However, if any members of the Board would prefer to enter into closed session to ask their questions or continue discussion, that could be arranged.

Chairman Keifer commented that this seems to be a legal matter and he was unsure how much discretion the Board would have over the issue, stating that there are legal bids and the protest must be reviewed from a legal standpoint. The current matter would be a decision of the attorney and the Executive Director, but if the Board is uncomfortable moving forward until they hear discussions at the following meeting, that is an option. Mr. Spain clarified that there are two issues being discussed, the independent response to the bid protest, and how to move forward in the interim as the current contract will expire during the time in which staff and legal will be addressing the protest. Mr. Spain mentioned that it had been suggested that the existing contract be extended, but he would need to look into that thoroughly to ensure that it was in compliance with procurement procedures. Another interim option would be to address these goods and services on a need-by-need basis following procurement procedure while the issues are worked out. Mr. Spain sees the latter as a simpler option for the time being, noting that the Board can receive a full report on the bid protest, as well as options moving forward at the next meeting.

Mr. Hansen commented that he appreciates the operational difficulties of not having a contract in place, but does believe that, as Ms. DeVary mentioned, the Procurement Act allows some latitude in contract extensions in cases where the contract language does not prohibit the possibility of an extension. He also noted that, should the protest be successful, the Board will be in a similar situation of how to proceed in the interim until a contract can be awarded. Mr. Hansen suggested that, for the sake of fairness, the best course of action would be to not make a decision at the current meeting and work to overcome the operational difficulties in the interim.

Chairman Keifer asked for further comments and opinions, but there were none. He went on to say that, as a matter of precedent, the Board is within its rights to proceed and authorize the execution of a contract in the event that the protest is found to be invalid. However, it is the opinion of the Board that they wish to delay discussion on this matter until the following month. Chairman Keifer tabled the issue until the July Board Meeting.



The next contract for consideration was in regard to landfill greenhouse gas reporting. It is necessary to update the SPSA greenhouse gas monitoring plan and perform some EPA mandated reporting. Ms. DeVary asked Mr. Bagley to give further details on the proposed work that would be done by HDR Engineers. Mr. Bagley explained that in 2010 regulations changed that required specific reporting to the EPA. While SPSA has always met the operational requirements, as well as reporting to DEQ under the Regional Landfill's Title V permit, through an administrative oversight, the EPA reporting component was not established. The proposed task order would be to bring the EPA reporting up to date through EPA established methods for reporting missing data. This task order would also include creating a template for future reporting processes so that SPSA remains compliant. HDR will likely continue to provide future EPA reporting due to the required engineering calculations. Ms. DeVary stated that \$47,688 is the estimated cost based on hourly rates and anticipated work required. She went on to say that there are funds available in the landfill's budget to cover costs.

Mr. Hansen asked Mr. Bagley to elaborate on how this reporting oversight occurred. Mr. Bagley responded that, unfortunately, he does not have a definitive answer. Mr. Bagley informed the Board that he learned that SPSA registered as a generator in 2010, but no reports were ever produced. Because the landfill gas is managed by a third-party, staff believes that there may have been some confusion regarding the reporting responsibility. Mr. Bagley was not with SPSA in 2010 so he cannot speak to the process that resulted in this oversight, but he assured the Board that the issue is being addressed and will be corrected moving forward. He reiterated that this is an issue of administrative reporting, not operational compliance. As Mr. Bagley understands it, the EPA's interest in the information is for overall calculations related to the environmental effects of greenhouse gasses, rather than SPSA's individual output. Mr. Hansen asked if SPSA would now be bearing the full responsibility of the reporting process. Mr. Bagley replied that it would, but that the gas contractors would be supplying SPSA with the required information, per their contract. There were no further questions or comments.

**Mr. McCoy moved, seconded by Mr. Keaton, to authorize the Executive Director to execute the task order with HDR Engineering for Regional Landfill Greenhouse Gas Reporting, as presented. The motion was adopted by a unanimous vote in favor.**

The final contract for consideration was for contract administration, so that HDR Engineers can assist SPSA with engineering services as they relate to the design build contract with A.R. Chesson. The project is scheduled to take 18 months with a completion date of December 30, 2022. The total estimated cost for the task order is \$104,392, but as with all contracts with HDR, this is based on hourly rates and time used. Ms. DeVary commented that funds are available within other cost centers and a budget transfer can be made to accommodate this cost. Mr. McCoy asked for the full amount of the design build contract with A.R. Chesson and Ms. DeVary responded that it was for \$3,316,052, making the new task order roughly 3-4% of the contract cost. Mr. Leahy added that in a design build contract it is essential to have someone looking out for the owner's best interests and that this task order would likely be money well-spent.

**Mr. Broad moved, seconded by Mr. Hansen, to authorize the Executive Director to execute the task order with HDR Engineering for Design Build Owner's Representative, as presented. The motion was adopted by a unanimous vote in favor.**



9. **OTHER BUSINESS**

Chairman Keifer asked if there was any further business to come before the Board, but there was none.

10. **ADJOURN MEETING**

There being no further business to come before the Board of Directors, the regular meeting was adjourned at 10:19 a.m.



\_\_\_\_\_  
Liesl R. DeVary  
Executive Director

---

Submitted by: Tressa Preston, Secretary, SPSA Board of Directors