

**GREATER NEW BEDFORD REGIONAL REFUSE MANAGEMENT DISTRICT
MEETING**

Meeting Minutes

Thursday, May 12, 2022

The Greater New Bedford Regional Refuse Management District Committee held a publicly posted meeting on **Thursday, May 12, 2022, at 8:00 A.M.** at the Dartmouth Town Hall, Room 315, 400 Slocum Road, Dartmouth, MA.

District Committee Members in attendance: Chairperson, John Beauregard; Ken Blanchard, Kelley Cabral-Mosher, Christine LeBlanc and Daniel Patten.

District Committee member Michael Gagne participated remotely via video conference.

Scott Alfonse, Executive Director; Leonor Ferreira, Secretary; and Attorney Matthew J. Thomas, District Counsel were also present at the meeting location.

1. Call to order / Salute the flag

Chairperson Beauregard called the meeting to order at 8:05 a.m. and led a salute to the flag.

2. Legal notices

Chairperson Beauregard read the following statement:

“Pursuant to Section 20 of Chapter 20 of the Acts of 2021, Michael Gagne, member of the District Committee, is participating remotely in this meeting.

I want to remind the members that texting and private chats on Zoom are not an acceptable method of remote participation. I also want to make sure that all members can be heard when they are speaking and if any member cannot hear another member, please let me know.

Finally, I want to inform members participating remotely that if their remote connection is lost, they should attempt to log back in. If your remote connection is lost, we will note the time you were disconnected and the time you logged back in.

Pursuant to the Open Meeting Law, any person may make an audio or video recording of this public meeting, or may transmit the meeting through any medium. Attendees are therefore advised that such recordings and transmissions are being made, whether perceived or unperceived, by those present, and are deemed acknowledged and permissible.”

Mr. Beauregard noted that legal notices of the meeting were posted in Dartmouth and New Bedford more than 48 hours prior to the meeting.

3. Roll call of members

Chairperson Beauregard, yes (in-person)
Ken Blanchard, yes (in-person)

Kelley Cabral-Mosher, yes (in-person)
Daniel Patten, yes (in-person)
Christine LeBlanc, yes (in-person)
Michael Gagne, not present (joined at 8:06 a.m.)

4. Approval of minutes

Chairperson Beauregard asked for a motion to approve the regular session minutes of the April 14, 2022, meeting. Motion made by Mr. Patten, seconded by Mr. Blanchard. All voted in favor.

Motion passed 5 – 0.

Chairperson Beauregard asked for a motion to approve the executive session minutes of the April 14, 2022, meeting. Motion made by Mr. Patten, seconded by Ms. LeBlanc. All voted in favor.

Motion passed 5 – 0.

5. Warrant Report and Ratification – Warrant No. 16-22 (April 14, 2022) and 17-22 (April 25, 2022)

Chairperson Beauregard asked for a motion to ratify warrant number 16-22 dated April 14, 2022, and 17-22 dated April 25, 2022. All voted in favor.

Motion passed 5 – 0.

6. New Business

a. Fiscal Year 2023 Engineer Services Contract

Motion to discuss and approve the FY 2023 engineering services contract with Brown & Caldwell made by Mr. Patten; seconded by Ms. LeBlanc.

(Mr. Gagne joined via remote teleconference at 8:06 a.m.)

Mr. Alfonse reviewed the proposed contract with Brown and Caldwell. He noted Brown and Caldwell has done a good job holding costs down over the last few years. He recommended approval of the FY2023 contract.

Motion to approve the FY 2023 engineering services contract with Brown & Caldwell made by Ms. LeBlanc; second by Mr. Blanchard. Roll call vote: Chairperson Beauregard – yes; Mr. Patten – yes; Ms. LeBlanc – yes; Mr. Blanchard – yes; Mr. Gagne – yes; Ms. Cabral-Mosher – yes.

Motion passed 6 – 0.

b. Consider Material Disposal Request

Motion to consider a request to dispose of material at Crapo Hill Landfill made by Mr. Patten; second by Mr. Blanchard.

Mr. Alfonse reviewed the request from OHI to dispose of material at Crapo Hill landfill and described the site from which the material would be generated. He explained that the site has its own “release tracking number” (RTN) which is a number assigned by MassDEP to identify and track releases of oil and/or hazardous materials. He noted that there are other RTNs for other properties in the area. He said the developer proposes to dispose of the material that might be suitable for reuse as daily cover at a Massachusetts landfill. Mr. Alfonse explained the MassDEP COMM-97 policy allowing the use of certain soils as cover, and noted the Town’s ordinance which prohibits this practice. He said the material could be accepted for disposal under a separate permitting process through MassDEP if the District agreed to accept the material.

Mr. Alfonse described the reasons the District might consider this request. Accepting the material would move it from a residential neighborhood in Dartmouth and place it in lined landfill, potentially

reducing a threat to public health and safety. He explained the area in question is contiguous to a larger site currently under investigation by USEPA and MassDEP. MassDEP has issued notices of responsibility to the City of New Bedford and Town of Dartmouth for their alleged dumping in this general area. At some point, parties performing cleanup may attempt to recover costs for cleanup from the City and the Town. The District could condition its acceptance on an agreement that the developer agree to not attempt to recover their cleanup costs from the City or Town.

Mr. Alfonse explained the possible disadvantages. It could create the expectation that the District accept other materials from sites in this vicinity and the volume could be significant. He noted EPA's involvement and explained that EPA may opt to use more highly regulated disposal facilities for disposal. This could create a perception that the material was not suitable for disposal at Crapo Hill. He noted that MassDEP must determine whether the material was suitable for disposal at Crapo Hill landfill.

Mr. Alfonse continued that if the District Committee agreed to accept the material, it may want to apply conditions, such as:

- Adequately characterize the material
- Require the developer to submit an excavation plan
- Assurance there was no cost recovery
- Developer would be responsible for preparing application to MassDEP on District's behalf.

He noted that the District should not incur costs for accepting the material.

Ms. LeBlanc provided a disclosure that she is currently working for the Town of Dartmouth on the project.

Mr. Beauregard asked if there would be any costs to the District.

Mr. Alfonse recommended that if the District determined it needed to hire a third party to develop acceptance criteria or review submittals to the District or MassDEP, that the District require the proponent to pay those costs.

Mr. Beauregard asked if acceptance of the material represented the best use of landfill airspace, or whether the town or city could benefit more from using the capacity for other material.

Ms. LeBlanc described the physical properties of the material, which contains ash and other debris. Mr. Beauregard again asked if there may be other material more suitable for disposal. Mr. Alfonse said he spoke with representatives of the Town of Dartmouth and City of New Bedford to solicit concerns or questions. The City and Town supported the idea of the District accepting this material, with the understanding that the District reserves its right to deny any future requests if future requests become onerous. He said representatives did not indicate a preference for disposal of other material. He said that the District has accepted similar material from City and Town projects in the past. He is not currently aware of any other projects currently being performed by the City or Town that would warrant the District accepting material.

M. Gagne voiced his opposition to accepting the material. He cited ongoing work in New Bedford and Dartmouth and suggested this could complicate those efforts.

Attorney Thomas advised on whether the developer, or the city and town would benefit more from accepting the material. He then referred to Mr. Beauregard's question about whether the capacity might be better used. He noted that similar material had been accepted in the past. He recommended imposing conditions and a requirement for a significant justification for accepting it. He reviewed the District's efforts to preserve capacity.

Attorney Thomas asked about contaminants present in the material. Ms. LeBlanc provided a general description. She explained that there would be a need for more data.

Mr. Alfonse explained that the District could work with a third-party to develop acceptance criteria and require the material meet the criteria as a condition for acceptance.

Attorney Thomas asked if the material is "COMM-97" soil. Ms. LeBlanc clarified that the material should not be physically characterized as soil, as it is a mix of soil and solid waste. If analyzed, some of the material may be comparable to COMM-97 soil.

Chairperson Beauregard referred to Mr. Gagne's comments and questioned whether the District should be involved. Chairperson Beauregard asked for clarification on the source of the request. Mr. Alfonse explained the request came from the developer's environmental consultant. Chairperson Beauregard said he would be more likely to consider this if the request came from the city or town. He asked if there were other options for disposal. Ms. LeBlanc described other possible options. Mr. Patten noted that in the past, the District has received an indication from the city or town of their support for similar requests. Mr. Alfonse responded that in one of the first requests received after the town passed its by-law, the District requested the proponent seek and demonstrate support for the request by the select board.

Attorney Thomas noted that the Town's by-law prohibits the transportation of COMM-97 soil in Dartmouth.

Mr. Blanchard said he considers this a favor to a private developer, and that there are likely alternative methods for disposal of this material.

Attorney Thomas noted that there may be attempts to share cleanup costs with the City and Town. Mr. Patten suggested this could represent a small portion of the total cleanup of all the properties in this area and Attorney Thomas agreed.

Mr. Patten asked if the District would receive a fee for disposal. Mr. Alfonse said there would be tip fee for disposal.

Ms. LeBlanc said there may be similar requests in addition to this request. She noted EPA involvement in other properties in this area and described the history of the site discovery of the property and the status.

Chairperson Beauregard said he would rather preserve landfill capacity. He respects the city and town stating their acceptance of the idea, but it is important to look at the bigger picture. He asked Mr. Alfonse if he had an opinion.

Mr. Alfonse noted the potential of leveraging a benefit from the developer on behalf of the City and Town and mitigating a potential threat in a neighborhood.

Chairperson Beauregard suggested tabling the matter and soliciting more input from the City and Town. Attorney Thomas asked if there was a time frame for doing the project. Mr. Alfonse said the letter describes the favorable real estate climate which will help make the cleanup more cost effective and that the favorable conditions may not persist.

Chairperson Beauregard said the District should not be pressured into a decision based on the developer's schedule. He repeated his concern that there be an assurance that this is a practical use of landfill capacity, and that the community he represents supports this use.

Mr. Blanchard expressed his concern about requests to dispose of additional material, and the precedent that could be set by accepting this material.

Chairperson Beauregard asked what the extent of the work might be, and Ms. LeBlanc provided a general description of the possible scope. She noted the agencies involved have not finalized their plan and the entire scope is uncertain.

Attorney Thomas noted that the District has taken similar material from the city and the town. However, the District has no legal obligation to accept material from other entities. He expressed

concern over what might happen if the District accepts this material but rejects similar material in the future.

Mr. Blanchard asked if this was similar to other projects in New Bedford which involved removal of material from sites.

Motion by Mr. Patten to table the item. Ms. LeBlanc seconded.

Mr. Alfonse asked for clarification as to what information the Committee would like before discussing the matter again. Mr. Beauregard asked for some further confirmation, preferably in writing. He said he would meet with the Town Administrator next week. Mr. Blanchard asked if the City attorney's feel this might be beneficial.

The group discussed whether accepting the material is more cost effective for the proponent, and how that might affect similar requests from other parties in the future, if those similar requests are denied by the District.

Roll call vote: Chairperson Beauregard – yes; Mr. Patten – yes; Ms. LeBlanc – yes; Mr. Blanchard – yes; Mr. Gagne – not present; Ms. Cabral-Mosher – yes.

Motion passed 5 to 0.

It was noted that at 8:40 a.m. Mr. Gagne was not present.

c. Request for Qualifications for Architectural Services update

Motion to discuss the fee proposal submitted by JM Booth and Associates made by Mr. Patten. Ms. LeBlanc seconded.

Mr. Alfonse described the fee proposal. He noted that payment would be out of buffer acreage line item. He also noted that the architect would be required to enter into the contract that the District included with its Request for Qualifications, not the contract attached to the fee proposal.

Mr. Alfonse made a recommendation that the District Committee award the contract for architectural services to JM Booth and Associates.

Mr. Beauregard expressed his concern over the expense for only designing the work to be performed. Mr. Alfonse said that the scope includes design, specifications, preparation of bid documents, assistance during bidding, and oversight of the selected contractor.

Mr. Blanchard asked if there was a cost estimate for construction. Mr. Alfonse said it would be provided by the architect as part of the project.

Mr. Gagne returned to the meeting at 8:42 a.m.

Motion by Mr. Patten that the District Committee award the contract for architectural services to JM Booth and Associates, seconded by Mr. Blanchard. Roll call vote: Chairperson Beauregard – yes; Mr. Patten – yes; Ms. LeBlanc – yes; Mr. Blanchard – yes; Mr. Gagne – yes; Ms. Cabral-Mosher – yes.

Motion passed 6 to 0.

d. Waste reduction update

Motion to receive update on waste reduction and recycling by Ms. LeBlanc. Mr. Patten seconded.

Mr. Alfonse said at the last meeting, Mr. Gagne requested an update on waste reduction efforts and specifically on efforts to reduce the amount of commercially generated food waste in the landfill.

Ms. Perez-Dormitzer explained that she would discuss the District's efforts to reduce food waste disposal and also cardboard disposal in the landfill. These two items are the items most identified in waste ban violations at the landfill and make up the largest portion of the waste stream as identified in the waste composition study performed by Geosyntec.

Ms. Perez-Dormitzer said Jacobs Elementary School and New Bedford High School are collecting food waste weekly and delivering it to a farm in Dartmouth for composting. The City is also collecting food waste at New Bedford Recycling Center. It will be delivered to an anaerobic digester in Rhode Island. As programs grow, it is important to have a reliable and economical outlet for the material.

She said that home compost bins sales have increased significantly. She discussed the benefits of home composting for those that can accommodate it.

On the commercial sector, Ms. Perez-Dormitzer described efforts to address waste ban violations, especially violations of the ban on organics and cardboard. She described how information on waste ban violations is currently tracked, and the outreach to certain generators to assist them with compliance. They have also helped direct the letters to appropriate representatives at the generators.

She noted that a business that is largest recipient of waste ban violation letters is not in the District.

Attorney Thomas stated that haulers should not deliver cardboard in their dumpsters. He asked what efforts have been undertaken and what efforts should we undertake to address this. He said that the District is revising commercial contracts and could include requirements that haulers notify all customers about cardboard ban. He felt haulers could do more to promote the bans and a separate cardboard collection.

Ms. Perez-Dormitzer agreed with the approach. She noted that she attempted to meet with a commercial hauler when the District began its effort to conduct outreach on waste ban violations, but was not able to set up a meeting.

Mr. Alfonse said the sale of local businesses may provide an opportunity for the larger companies to offer extra services to their customers, such as a separate cardboard collection.

Mr. Patten described using regular mailings, such as water bills, to communicate information.

Ms. LeBlanc asked if businesses have space available for separate containers. Ms. Perez-Dormitzer said there are smaller container options available, and adjustments can be made.

Mr. Blanchard noted that the District has the ability to reload trucks in the event of a violation. Mr. Alfonse described operational challenges of reloading material back into a truck. The material that was recyclable is often mixed with and contaminated by solid waste, rendering it unrecyclable. Mr. Blanchard suggested the District take a more aggressive approach and reload trucks that deliver material in violation of waste ban. Mr. Beauregard said that it would send a message to haulers.

Mr. Alfonse noted that haulers do not have complete control over what material goes into their dumpsters and roll-offs and must rely on their customers to comply. He suggested that the District step up its education and outreach before reloading material back into trucks or roll-offs.

Mr. Beauregard repeated Mr. Alfonse's comments about the opportunity that exists with the sale of local companies to larger corporations.

Mr. Gagne noted that smaller restaurants sometimes commingle cardboard and organics with solid waste. He suggested meeting with owners individually and educating them about waste bans. He also said that as we move through our master plan, that we should ask Geosyntec how much the City and town generate in organics.

Attorney Thomas asked for clarification on what the obligations are for the District and for the City and town to implement recycling programs. Mr. Alfonse explained the District does not have enforcement authority. The group discussed the responsibility of the District, city, town, haulers, and generators to recycle. Mr. Alfonse and Ms. Perez-Dormitzer stressed that waste ban compliance is key tool for enforcement.

Ms. LeBlanc noted that other areas have separate cardboard collection and asked if that is available in Dartmouth and New Bedford. Ms. Perez-Dormitzer explained that local haulers offer separate cardboard collection. The group discussed various cardboard collection scenarios, including curbside by the city or town, in New Bedford as part of curbside collection program for businesses, or by a hauler. Ms. Perez-Dormitzer said that a New Bedford business that generates a large volume of cardboard could be eligible for a separate pickup by the City's contractor at no additional cost. Mr. Alfonse suggested that haulers be made aware that the District could promote the City's cardboard collection for any business that has cardboard.

Mr. Blanchard noted that the City's current collection contract which includes cardboard collection expires in June 2023. He questioned whether the next contract would include that option.

Mr. Alfonse referred back to Mr. Gagne's earlier comments suggesting Geosyntec quantify the amount of organics available from District communities. Mr. Alfonse said that this is within the scope of work Geosyntec is performing.

The Committee thanked Ms. Perez-Dormitzer for her attendance.

e. Discuss FY 2023 salaries budget

Mr. Alfonse noted that the subject could be discussed in open session or executive session, since it involves conducting strategy sessions in preparation for negotiations with non-union personnel. Mr. Beaugard suggested discussing the matter in executive session.

Mr. Gagne noted the agenda did not include an executive session. Attorney Thomas advised that the item to be discussed is on the agenda, and that Committee can decide if it wants to enter into executive session to discuss it.

Chairperson Beaugard read the following statement:

"Before we vote on whether to enter Executive Session, I want to remind all District Committee members participating remotely that when you vote to go into Executive Session you must also state if anyone else is in the room with you.

While in Executive Session, if anyone enters the room with you must immediately inform me and we will briefly recess the Executive Session until the person leaves the room.

I would also ask that you handle all materials discussed in Executive Session in the same manner as if you were participating in person."

Motion to enter into executive session for the purpose of conducting strategy sessions in preparation for negotiations with non-union personnel made by Ms. LeBlanc. Mr. Patten seconded.

Roll call vote: Chairperson Beaugard – yes; Mr. Patten – yes; Ms. LeBlanc – yes; Mr. Blanchard – yes; Mr. Gagne – yes; Ms. Cabral-Mosher – yes.

Motion passed 6 to 0.

The Committee adjourned to Executive Session at 9:16 a.m. and returned to open session at 9:41 a.m.

Motion to provide a \$500 stipend per employee, excluding Executive Director and Treasurer, to be paid in fiscal year 2022 as an expression of appreciation and their response to the challenges of FY 22, made by Ms. LeBlanc. Seconded by Ms. Cabral-Mosher. Roll call vote: Chairperson Beauregard – yes; Mr. Patten – abstain; Ms. LeBlanc – yes; Mr. Blanchard – yes; Mr. Gagne – yes; Ms. Cabral-Mosher – yes.

Motion passed 5 to 0 (1 abstention).

f. Update on current administrative staffing

Motion to discuss the administrative staffing issue made by Ms. LeBlanc. Mr. Patten seconded.

Mr. Alfonse said a salaried employee is currently out on medical leave and will likely remain out for a few weeks. The employee has been employed by the District for several weeks, and does not have sufficient accumulated paid time off to cover the absence. He noted that the District is a “covered employer” under the Family Medical Leave Act (FMLA), but “eligible employees” must work for the employer for at least 12 months, and work in a location where the employer has at least fifty employees. The District does not have any “eligible employees” under FMLA. The Commonwealth’s Paid Family Medical Leave (PFML) requires that the District accept the conditions of PFML, and the District has not done that. Mr. Alfonse noted that employees must work (or use accumulated time) a minimum of 20 hours per week to be eligible for health insurance. He asked if the Committee would consider granting paid leave during this period.

The group discussed options including reduced hours and unemployment. Mr. Beauregard noted that this does set a precedent. Mr. Blanchard said that unemployment poses challenges, including a waiting period. Mr. Alfonse said there would be a cost to the District if an employee is eligible for unemployment.

Motion by Mr. Patten that because the employee has used available time and remains out on leave, the Executive Director is authorized to pay the employee 20 hours per week for the next six weeks to maintain health insurance benefits.

Mr. Beauregard said he thought payment would be for 40 hours per week. Mr. Patten said he did not want to pay for 40 hours per week because it would set a precedent. Mr. Beauregard said either way, it would set a precedent. Mr. Blanchard suggested 40 hrs. per week for 4 weeks. Mr. Patten said he recommends it should be 20 hours to preserve eligibility for health insurance and receive income.

Mr. Alfonse said the employee has been paid in full after exhausting all paid leave since the absence began (paid for weeks ending 4/30 and 5/7).

Attorney Thomas suggested amending the motion to ratify the payment through this pay period, and from this period forward authorize the Executive Director to pay up to 6 weeks at 20 hours per week.

There was no second on Mr. Patten’s motion, therefore the motion failed.

Motion by Mr. Blanchard to pay the employee’s full salary for 6 weeks from date paid leave was no longer available.

Ms. Cabral-Mosher said she is concerned about setting a precedent. She suggested this needs to be part of a larger policy and that issues such as this will be considered on a case by case basis.

Mr. Blanchard referred to the importance of retaining employees. He repeated his concern that the unemployment process is difficult. Ms. Cabral-Mosher agreed the process can be difficult.

Mr. Patten said that his preference for paying only 20 hours is because it does set precedent. It provides employees with income and insurance, and speaks to the importance of employees having a financial backup.

Ms. Kelley Cabral-Mosher asked if Mr. Blanchard would amend motion by recommending the District review its policies to address this as policy for the future. **Mr. Blanchard agreed to amend his motion to add recommending the District review its policies to address this as a policy for the future.**

Ms. Cabral-Mosher seconded the motion.

Mr. Alfonse noted during the absence, the Executive Secretary has performing certain essential duties of the vacant position. In the past when this has occurred, the Executive Secretary has been paid a \$300 per week stipend.

Mr. Blanchard further amended the motion to include a \$300 per week stipend for the Executive Secretary for performing certain essential accounting duties during the absence. Ms. Cabral-Mosher seconded the amended motion.

Roll call vote: Chairperson Beauregard – yes; Mr. Patten – yes; Ms. LeBlanc – yes; Mr. Blanchard – yes; Mr. Gagne – no; Ms. Cabral-Mosher – yes.

Motion passed 5 to 1.

g. Director's Report

No discussion.

7. Old Business

a. Disposal Agreements Update

Mr. Alfonse said Cleanway Disposal has been sold to WINWaste, leaving the District with two commercial customers (Waste Connections and WINWaste). He described the status of negotiations, and the efforts to offer lower disposal rates for commercial waste from New Bedford and Dartmouth if those haulers offer reduced rates to their New Bedford and Dartmouth customers. The haulers have not expressed interest in this arrangement. Mr. Alfonse recommended contracting with Freetown at \$70 per ton for one year, and notifying the towns of Oak Bluffs and Tisbury that it would not renew the contracts.

Motion to adjourn by Mr. Patten. Mr. Blanchard seconded.

Mr. Beauregard left the meeting at 10:02 a.m.

Mr. Gagne explained he found it troublesome that the haulers rejected a lower fee for New Bedford and Dartmouth commercial entities. Commercial entities pay a portion of the District assessment in their property taxes. They should get some consideration at a lower rate.

Mr. Alfonse said that haulers would need to agree offer that to their customers and he is not sure how to force the hauler to do that.

Mr. Gagne noted the higher rate is passed onto their customers and he believes those customers should be entitled to a discount.

Attorney Thomas suggested that Mr. Alfonse, Mr. Gagne and he meet to discuss this issue.

8. Set Meeting Schedule

No discussion.

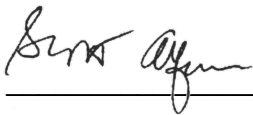
9. Adjourn

On the motion to adjourn, roll call vote: Chairperson Beauregard – not present; Mr. Patten – yes; Ms. LeBlanc – yes; Mr. Blanchard – yes; Mr. Gagne – no; Ms. Cabral-Mosher – yes.

Motion passed 5 to 0.

The meeting adjourned at 10:03 a.m.

Approved by vote of District Committee on June 16, 2022



Scott Alfonse, Executive Director