GREATER NEW BEDFORD REGIONAL REFUSE MANAGEMENT DISTRICT
DISTRICT MEETING – November 27, 2018

Minutes

The Greater New Bedford Regional Refuse Management District Committee held a publicly posted meeting on **Tuesday, November 27, 2018, at 8:00 AM** at the Dartmouth Town Hall, Room 305, 400 Slocum Road, Dartmouth, MA.

District Committee Members in attendance: John Beauregard, Chairperson; Daniel Patten, Christine LeBlanc, Ken Blanchard, Kathleen Towers.

Nathalie Dias, Vice Chairperson; not in attendance.

Also present: Scott Alfonse, Executive Director; Leonor Ferreira, Secretary; Attorney Matthew J. Thomas, District Counsel; Cynthia Cammarata, District Accountant; Mary Sahady and Andrew Lima; Hague, Sahady & Co., P.C. representatives

1. Call to order by Chairperson John Beauregard; roll call of members

Chairperson Beauregard called the meeting to order at 8:02 AM.

2. Salute to the Flag

All in attendance stood to salute the flag.

Chairperson Beauregard read the notice advising the Board that the meeting may be recorded by audio and/or video.

3. Legal Notices

Chairperson Beauregard noted that the meetings were posted timely in both New Bedford and Dartmouth.

4. Warrant Report and Ratification

Chairperson Beauregard asked for a motion to ratify the warrants dated October 29, 2018, and November 8, 2018. Motion made by Mr. Patten, seconded by Ms. LeBlanc. Vote 5-0.

5. Approval of Minutes

Chairperson Beauregard asked for a motion to approve the October 18, 2018 regular session and executive session minutes. Motion made by Mr. Patten, seconded by Ms. LeBlanc. Vote 5-0.

6. New Business

a. FY 2018 Audit presentation by Hague, Sahady & Co.

Chairperson Beauregard asked for a motion to receive the FY 2018 audited financial statements from Hague, Sahady & Co. Motion made by Ms. LeBlanc, seconded by Mr. Blanchard. Vote 5-0.

Ms. Sahady presented the audited financial statements prepared by Hague, Sahady & Company for fiscal year 2018 ending June 30, 2018. Ms. Sahady referred to the Report Letter, which indicates no findings with regard to non-compliance with the accounting standards. She then referred to the Management's Discussion and Analysis (unaudited) (MD and A) section, and noted that it reported on the different aspects of the District. In fiscal year 2020, the MD and A will be changing and will be more user friendly. MS. Sahady referred to the Statement of Net Position on page 11, and discussed the status of the financial statements. Because the District charges for its services (i.e. assessments, user fees) it's referred to as proprietary fund or enterprise fund which requires the District to report all of its information on the full accrual basis (receivables and payables). She discussed the Statement of Net Position in detail, which includes the assets, liabilities, and equities.

Mr. Beauregard noted that account receivables are discussed monthly with the board, and questioned if the District should have any reason for concern with the total amount of the receivables on the audit report. Ms. Sahady noted the total amount. One major customer is responsible for approximately 50% of the accounts receivables total. Ms. Sahady stated that the dollar value, based on the activity, is not significantly high.

Attorney Thomas stated that the customer's invoices have 60 day payment terms, and stated that interest begins to accrue at 30 days, but the invoice is not due until 60 days. Attorney Thomas noted that the District considered it a current bill. Ms. Sahady noted that by accounting estimation, the bill is due when it has presented to the customer for services rendered.

Mr. Alfonse questioned if a 60 day payment term would not be advisable. Ms. Sahady said that that it would not be advisable, especially when the customer contributes to a large portion of the District's tipping fee revenue.

Ms. Sahady referred to other prepaid assets and noted payments to retirement, property insurance, and health insurance, which are payments in advance that have to be paid by June 30th. She then referred to GASB 68 – deferred outflows which outline the pension requirements. She noted that deferred inflows and deferred outflows have an impact on the way the investment is made, the measurement dates, and the assumptions. The District is using a computer software program for OPEB liability assumptions. The District is part of the city retirement system. The city has its own actuarial analysis done by a third party contractor. She noted that the District should consider its census data be removed from the total, and calculate it separately. This would decrease appropriations for retirement.

Attorney Thomas questioned when the request would have to be presented to the pension board. Ms. Sahady noted that in other communities, entities such as the District have sought to have their census data removed when calculating unfunded pension liability. She noted that when calculating unfunded pension liability, the significant number of police, fire, and emergency medical services employees skew the pension liability. She noted that some have had their census removed from the total and calculated separately, so the pension liability would be reduced. Mr. Patten noted that it would have to be approved by the retirement board who is controlled by the city.

Mr. Beauregard noted that the District was removed from the town's health insurance, and questioned if it was the acceptable for the District to be in the city's retirement system. Mr. Alfonse noted that the District has a written agreement with the city of New Bedford Contributory retirement system. The health insurance with the town was an informal agreement.

Ms. Sahady noted that other entities that pay into the retirement system would pick up more of the percentage if the District were removed from census used to calculate pension liability.

Ms. Sahady referred to Liabilities on page 12 and noted current liabilities and net position. The amount on the current liabilities is due to one invoice, which is part of phase 2, cell 6 construction. Mr. Beauregard questioned if that has been paid. Mrs. Cammarata noted that it has been paid in July 2018, the beginning of FY 2019.

Ms. Sahady noted that Net Position is in good standing, and discussed restricted assets and unrestricted assets. The District is where it should be on undesignated, unreserved fund balance or net position.

Ms. Sahady recognized Andrew Lima.

Mr. Lima referred to Notes to the Financial Statements, OPEB Plan, on page 35, and noted that as a result to switching to GASB 75, which requires the disclosure in the financial statements, the District has a net OPEB asset. The position for the OPEB trust exceeds liability estimation.

Attorney Thomas questioned the increase of the OPEB asset. Mrs. Cammarata and Mr. Alfonse noted that other District employees had prior service in other municipalities and have retired from the District. There was an assumption that part of the OPEB liability would have been paid by those other communities, but the laws changed. Mrs. Cammarata also noted that there were other District employees that moved on to other municipal employment.

Mr. Lima noted that it is reflected on page 37, OPEB liability, expected and actual.

Mrs. Cammarata also noted that the projected healthcare costs decreased.

Mr. Beauregard questioned the District's strategy going forward. Mr. Alfonse noted that there was previous discussion about the District's reliance on a computer model (ACOPEB), to generate a number for the annual contribution. The District provides the inputs. He noted that a majority of the calculations are not seen by District staff. The OPEB reserve was overfunded last year, and it is greatly overfunded this year. Mr. Alfonse noted the need to have an actuary calculate OPEB liability to determine if the current reserve is sufficient or overfunded.

Mr. Lima referred to Supplementary Information, Budget to Actual (Non-GAAP Budgetary Basis), on page 49, and noted the surplus, which is mostly due to commercial haulers revenue.

Mr. Alfonse noted that revenue was more than what was projected due to in part to a major customer's tonnage. The contract required the customer to deliver a minimum yearly tonnage, but there was no upper limit that the customer had to stay within. The customer brought in more than the 27,000 tons per year, which was their "floor" tonnage.

Mr. Alfonse stated that most of the District's contracts were structured the same way. There was not an upper limit and a tonnage limit, which customers had to stay within. He noted that new contracts are being written with a "not to exceed" amount on the tonnage. A "put or pay" amount is also included. Customers will have to stay within the contract tonnage range. Revenue projections will be based on those tonnage projections. Revenue projections for FY 2018 did not include ABC Disposal revenue because the contract was signed after the budget was finalized. Another customer brought in extra tonnage than what was projected for the customer.

Ms. Sahady noted that by limiting the tonnage, without another source of revenue, there would less surplus revenue to fund reserves and establish new reserves.

Mr. Alfonse noted that at the last meeting, the board discussed that the District has room to reduce the tonnage, reduce revenue slightly, preserve capacity, and sustain the District operation.

Mr. Lima referred to Supplementary Information Statement contained on page 51, 52, and 53 and noted each reserve established and their balances. He noted the financial statements show the activity (inflow and outflow) throughout the year.

Attorney Thomas noted that the District was in the process of establishing trust funds for closure and post-closure. The District is awaiting MassDEP's response with the approval. He questioned if the newly created trust funds would be listed under the Fiduciary Fund on the following fiscal year's audit report. Ms. Sahady said that they would and noted that the accrued liability on the statement of net position would move to the Fiduciary Fund also. Cash, liability and reserve would move to the trust fund.

Ms. Sahady noted that the District would need to budget revenue into those reserves on an annual basis if funds were needed to cover future liability that was calculated to close the landfill. Operating revenue can be used for the closure and post closure, and by creating trust funds, the revenues are separated. Should the District require additional revenue for additional closure and post closure costs, it would have to be budgeted from the operating fund. There would be additional fiduciary fund statements for the post closure and closure trust funds.

Ms. Sahady discussed restricted cash and restricted investments on page 23 and 24.

Attorney Thomas noted page 54, and referred to the last two sentences of the report, which mention internal controls. Ms. Sahady noted that the internal controls and segregation of duties are adequate.

Ms. LeBlanc noted page 11, and questioned the line item "Due from the City of New Bedford". Mr. Lima noted that there was a footnote for the line item, and referred to Notes to the Financial Statements on page 41. The amount is due to member communities assessments, which vary yearly.

Mr. Alfonse noted that assessment letters are sent yearly to member communities in. The District bases the percentage for each community on the last fiscal year's available data. At the end of the fiscal year, adjustments are made according to the reconciliation.

Ms. Sahady concluded the presentation.

Mr. Alfonse recognized Mrs. Cammarata for the great work she does on the audit each year for the District.

Ms. Sahady, Mr. Lima, and Mrs. Cammarata left at 8:45 a.m.

b. FY 2018 reconciliation and discussion of District reserves

Motion to discuss the fiscal year 2018 reconciliation and the District reserve accounts made by Ms. LeBlanc, seconded by Mr. Patten. Vote 5-0.

Mr. Alfonse noted the spreadsheet, which listed the reserve account balances as of June 30, 2018, the FY19 deposits to reserves that are currently budgeted, estimated funds to be spent in FY19, and proposed deposits to reserves from reconciliation. Mr. Alfonse discussed the proposed deposits to the District's reserve accounts from FY 18 reconciliation:

- $491,457.00 to Equipment Reserve. The District Committee approved purchase of a crawler / dozer, which will be paid from this reserve in FY 2019 ($305,000). Mr. Alfonse noted that there would be a recommendation that the District purchase a new compactor (approximately $700,000) in this fiscal year. This purchase has not yet been yet presented to or approved for the board.

- $1,258,500 to Landfill Closure Trust Fund. The District is required to have funds available to close every cell of the landfill that has been constructed. When a new cell is constructed, the District adjusts the fund balance in an amount equal to the additional closure costs. Brown and Caldwell reviewed and adjusted estimates for final closure of uncapped cells. The estimate for closure of existing uncapped cells (including cell 6, which is under construction) is $4,534,387. Mr. Alfonse is proposing a $1,258,500 deposit.

- $1,014,838 to Phase 2 / Construction Trust Fund. Mr. Alfonse noted the goal at the end of FY 2019. He corrected that on the "Notes" the "Goal" was based on costs adjusted for inflation 2% annually. The $16,150,645 is the total goal for FY 2019. Mr. Patten questioned if the $16,000,000 reflected the $3,000,000, which is the amount for transfer out of reserve FY 2019. He questioned if the total was $19,000,000 minus the $3,000,000, which would make it the $16,000,000. Mr. Alfonse agreed.

Mr. Alfonse noted the actual assessments paid by member communities for FY 2018. New Bedford has debit of $4,327 and Dartmouth has a credit of $4,327.

Mr. Blanchard questioned if those were typical amounts for member communities. Mr. Alfonse noted that New Bedford had an $11,000 credit in the prior fiscal year. In FY 2018, the Town of Dartmouth delivered 800 tons less, and that can make a difference in the assessment.

Chairperson Beauregard asked for a motion to authorize the Treasurer to certify the Fiscal Year 2018 Reconciliation and approve the transfer of the following FY 2018 revenue into the following reserve funds:

$491,457 into Equipment Reserve Fund
$1,258,500 into Landfill Closure Reserve Fund
$1,014,838 into Phase 2 Design/Construction Fund

Motion made by Mr. Blanchard, seconded by Ms. Towers. Vote 5-0.

c. Discussion of FY 2020 budget preparation and subcommittees to review draft budgets.

Mr. Alfonse noted that the Executive Director prepares a draft budget. In the past, the Personnel Subcommittee (formally Rosemary Tierney and Larry Worden) would review and make recommendations on the proposed Salaries and Wages section of the budget. A Budget Subcommittee (John Beauregard and Daniel Patten) would review and make recommendations on the remaining sections of the budget. Any changes would be incorporated and the revised draft budget would then be presented to the full committee for approval, which has to be approved by January 18, 2019. He noted that if the District Committee wanted to continue this process, new personnel subcommittee members would be needed. Mr. Beauregard asked for volunteers for the Personnel Subcommittee. Mr. Alfonse described the subcommittee process to the board. He noted it usually requires one yearly meeting, about one hour long.

Ms. Towers and Ms. LeBlanc volunteered as new members for the Personnel Subcommittee.

John Beauregard and Daniel Patten volunteered to stay as members of the Budget Subcommittee.

d. Commercial hauler account status

Motion to discuss the status of commercial hauler accounts made by Mr. Patten, seconded by Mr. Blanchard. Vote 5-0.

Mr. Alfonse noted that the November 1, 2018 shutoff deadline has been successful. One customer, which delivers a very small amount of catch basin cleanings, is currently restricted from entering the landfill, and has a small balance due to the District.

Mr. Beauregard questioned what the customer's balance was. Mr. Alfonse responded that it was approximately $8,000, and noted that he is in contact with customer.

Mr. Alfonse noted that the District has offered payment terms to the three customers whose contracts expire December 31, 2018. Offered terms were based on the October 18, 2018 committee meeting discussion.

Mr. Alfonse provided status on a major customer and noted the customer's dissatisfaction with finance charges on late payments. He summarized the customers concern with this, as well as the discussions on a new contract.

Attorney Thomas noted the contract ends December 31, 2018, and that the District is looking for a promissory note at 10% interest rate, with two and half year term.

Ms. LeBlanc stated that per previous Board discussion, the promissory note was to for half of the customer's account balance. Attorney Thomas noted that customer must provide a promissory note and a guarantee such as a letter of credit. Ms. LeBlanc showed concern that a guarantee be provided, other than the customer's name on the promissory note. She was looking for something more substantial.

Mr. Alfonse noted that the conversation with the customer included discussion that the District required some payment assurance, and that it should provide the District with a promissory note for assurance.

Mr. Blanchard showed concern if customer claimed bankruptcy, the promissory note and a letter of credit would not assure payment to the District. He reminded the Board of a previous position the District was in with a customer that claimed bankruptcy and had a substantial amount of debt due to the District.

Attorney Thomas noted that if the District has a secured promissory note, the District is in a much better position. If the District does not obtain a promissory note and letter of credit from customer and the debt rolls over into the new contract, then it becomes unsecured credit.

The Board discussed the District challenges and options it had should a major customer default on their account and claim bankruptcy. Attorney Thomas noted the need for the District to service a major customer which services New Bedford and Dartmouth communities but apply reasonable demands to customer such as promissory note, mortgage on their property, or a piece of equipment, to guarantee payment on their account balance should they default on their account. He suggested a $45,000 payment from customer per week with the offer of a 30 day payment terms. He noted that there would be 3 weeks in January 2019 which customer will not be required to make payments. He suggested the District hold the first 2 week payments to create a $90,000 credit line ($45,000 per week). The other $45,000 could be used to pay down the promissory note. Going forward, customer would be required to pay a full invoice weekly.

Mr. Alfonse questioned what Attorney Thomas estimated interest rate was. Attorney Thomas said that he was estimating with a 10% interest rate. He noted that customer would be expected to pay an extra $15,000 per month with cross default provision on the contract. He noted that should customer's payments be late, the District would stop customer from accruing debt. He noted that going into court with a promissory note, the District would be in a much better position than going into court on unsecured receivables.

Mr. Patten questioned if all the three contracts were expected to have their accounts paid by December 31, 2018. He stressed the need for consistency on new contract payment terms. Attorney Thomas noted that a major customer's new contract would still carry a balance; however, the District will have payment assurances from them.

Mr. Alfonse noted that one of three customers pre-pays invoices.

Mr. Blanchard questioned if new contracts were being aligned with the fiscal year, and Mr. Alfonse responded they were.

Ms. LeBlanc expressed concern that the District was requesting all customer accounts to be current by end of December 31, 2018, and not to carry a balance into January 1, 2019, but the District was allowing a major customer to carry an account balance after December 31, 2018.

Attorney Thomas stated that the major customer's contract would be considered current because customer is providing the District a promissory note as an assurance of payment. He noted that the customer would not owe the District on the contract. They would owe the District on the promissory note. Attorney Thomas noted that new contracts would be noted with a "phrase" that a new contract would not be issued if customer's account is not current, and prior contract is not fully paid.

Mr. Blanchard noted that major customer would have 2.5 years to become current on their account.

Ms. LeBlanc noted that major customer would pay $15,000, plus $45,000 weekly, totaling approximately $150,000 monthly. There was question whether the customer could remain current.

The Board discussed major customers accounting methods for paying their invoices. Attorney Thomas noted that the District has worked diligently to resolve a major customer's accounts receivables.

LeBlanc questioned if there was a stopgap if customer defaults. Attorney Thomas noted that by customer defaulting, the District would not accept any solid waste from them and would file proceedings with the court against major customer.

Mr. Blanchard noted that the major impact would be not accepting solid trash from major customer.

Mr. Beauregard noted that 10% interest rate was a little high and suggested an 8% interest rate. He also noted that the customer's argument of the District's past practice of not imposing finance charges is not acceptable.

Mr. Alfonse noted that new tipping fees were agreed upon with the customer.

Mr. Blanchard questioned if the District was as accommodating in the past, to another customer who had defaulted on its account. Attorney Thomas said that the District was, and it accepted partial payments from customer.

Mr. Alfonse noted that District's past practices has been lenient with collections particularly with two customers. He said that past practice was never to stop customers from coming into the landfill, and interest rates were never charged on overdue accounts. Enforcing the current contract provisions is new. He noted the difficulty in changing the long-term practice of the customer's reliable, but late, payments. He described the differences between certain customers that have been loyal, and other that have sought other disposal facilities, only to return to the District.

Mr. Patten doubted that customer would be able to pay full account balance and be able to pay the first $45,000 weekly. Attorney Thomas noted that customer would not be able to pay if they paid the $430,000.

Ms. LeBlanc noted that District's receivables would be up to date if customer was to pay the full amount.

Attorney Thomas doubted that customer would pay the full amount of $430,000 by the end of 2018. Ms. LeBlanc noted that she would prefer customer to pay half of the account balance now and the balance in January 2019.

Attorney Thomas noted those 2 years ago, during negotiations, customer was asked to provide payment terms that would best work for them, and the District would try and negotiate it, but customer could not follow through. Mr. Alfonse noted that customer would propose payment on one invoice and quarter, but customer has not been able to adhere to those terms.

Mr. Patten suggested that the District allow major customer to stay with a 30 day payment term as of December 31, 2018, then the balance amount above the 30 day payment term would be the promissory note. He suggested a $45,000 weekly payment to keep customer within the 30 day payment term. The promissory note would be for the difference owed on the account, not the full account balance.

Attorney Thomas noted that legally, by allowing customer a 30 day payment term over into the new contract, in essence the District would be providing an implied loan. He suggested not including it in the major customer's contract. He noted that a promissory note or a contract with cross default provisions be preferable instead of building it into the contract. It is legally better for the District to obtain two documents. He questioned if the Board preferred collection of half of the balance amount before December 31, 2018, and use the remainder of the balance into a promissory note with cross default provisions.

Mr. Patten suggested that customer sign a promissory note for the full amount. Payments of $45,000 each are due on the first week, second, and third week of January 2019.

Mr. Alfonse noted that the District's proposed payment terms were net 30 days, but customer has stated that they are unable to pay within the 30 days.

The Board agreed to receive three payments of $45,000 each week, and then drop it down to $14,000 per month. Payment terms were set at net 45 days with a promissory note. Attorney Thomas is to obtain a mortgage or letter of credit for the account balance with cross default provisions.

Mr. Alfonse noted the customer said it would provide a letter of credit.

Attorney Thomas questioned if the board agreed of a straight tipping fee, and a 30 day payment terms. Mr. Blanchard noted that it would be the same as the other customers.

Attorney Thomas confirmed the Board's suggestions by noting that 30 day payment terms would be applied to new contracts, and questioned what the board would prefer to charge as interest rate. Mr. Beauregard noted that 10% interest rate was high and he suggested 8% interest rate.

Mr. Patten noted that customer would not be allowed to dispose at the landfill if any balance is at 45 days.

Mr. Blanchard questioned if 8% would be applied on the promissory note also. Attorney Thomas noted that the provisions on the new contract regarding waiving interest.

Mr. Alfonse noted that the District has an established policy that allows the Executive Director to waive a certain number of interest charges per year. Anything over requires the board's approval.

Mr. Beauregard noted that major customer is a valued District customer and wants to continue doing business with them, but past practices do not apply.

e. 612 Quanapoag Road repairs

Motion to authorize the advertisement of an invitation for bids to replace windows, siding and trim board at 612 Quanapoag Road made by Mr. Patten, seconded by Ms. LeBlanc. Vote 5-0.

Mr. Alfonse noted the property at 612 Quanapoag Road is a residential rental property, which is in need of building repairs. It needs window replacement, wood trim boards, and siding. The condition of trim boards and siding is poor and should be replaced. The project could exceed $50,000. Building construction projects over $50,000 requires the District to publicly advertise the project and seek sealed bids from qualified contractors.

Mr. Blanchard questioned who was going to develop scope of services for the project. Mr. Alfonse noted it would done by Shawn Peckham and himself. Mr. Blanchard questioned if Mr. Alfonse was not going to engage an architect. Mr. Alfonse noted that Shawn Peckham would specify the materials. Mr. Blanchard also noted the deck and railings should be evaluated.

Ms. LeBlanc questioned if it was worth repairing this property. Mr. Alfonse noted the house is in good condition.

Motion to advertise made by Ms. LeBlanc, seconded by Mr. Blanchard. Vote 5-0.

f. Director's Report

Motion to receive the Director's report made by Ms. LeBlanc, seconded by Mr. Patten. Vote 5-0.

h. Items which could not have been reasonably anticipated 48 hours in advance.

Mr. Blanchard questioned if there were any material changes to the request for proposals (RFP) lease for the landfill gas to energy facility. Mr. Alfonse noted that there was a minor change on the guarantee on the minimum methane content, and a few minor changes. Attorney Thomas noted that there were not any material changes to the RFP.

7. Set date for next meeting (Personnel Subcommittee, Budget Subcommittee)

The next Board meeting scheduled for December 6, 2018 at 8:00 a.m.

9. Adjourn

Chairperson Beauregard asked for a motion to adjourn. Motion made by Mr. Patten, seconded by Ms. LeBlanc. Vote 5-0.

Meeting adjourned at 9:37 a.m.

Approved by vote of District Committee on Thursday, January 17, 2019.

Scott Alfonse, Executive Director