

October 21, 2008

## **SOLID WASTE DISPOSAL DISTRICT**

The Board of Commissioners of the Solid Waste Disposal District met at the County Commission Chambers, 1801 27<sup>th</sup> Street, Vero Beach, Florida, on Tuesday, October 21, 2008. Present were Chairman Sandra L. Bowden, Vice Chairman Wesley S. Davis, and Commissioners Joseph E. Flescher, Peter D. O'Bryan and Gary C. Wheeler. Also present were County Administrator Joseph A. Baird, County Attorney William Collins II, and Deputy Clerk Maureen Gelfo.

The Chairman called the meeting to order at 11:10 a.m.

### **15.B.1. APPROVAL OF MINUTES REGULAR MEETING OF AUGUST 12, 2008**

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of August 12, 2008. There were none.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner Flescher, the Board unanimously approved the Minutes of the Regular Meeting of August 12, 2008, as written.

**15.B.2. APPROVAL OF MINUTES REGULAR MEETING OF SEPTEMBER 9, 2008**

The Chairman asked if there were any corrections or additions to the Minutes of the Regular Meeting of September 9, 2008. There were none.

ON MOTION by Commissioner Flescher, SECONDED by Chairman Bowden, the Board unanimously approved the Minutes of the Regular Meeting of September 9, 2008, as written.

**15.B.3. RATE PROPOSAL BY WASTE MANAGEMENT, INC. OF FLORIDA FOR CO-DISPOSAL OPERATIONS**

Himanshu Mehta, Managing Director for the Solid Waste Disposal District (SWDD), recapped the backup memorandum of October 3, 2008 and provided background, description, and analysis regarding co-disposal of Municipal Solid Waste (MSW) and Construction & Demolition (C&D) debris in a lined Class I landfill, which co-disposal was authorized by the Board in 2007. He thereafter requested Board approval of staff's recommendation, to approve the co-disposal operation and the rate proposal by Waste Management, Inc. of Florida to provide the service.

Director Mehta explained, for Vice Chairman Davis: (1) that this fee would not increase disposal fees for commercial businesses; and (2) why the collection rates have gone up for some commercial businesses.

Responding to Commissioner O'Bryan's question, Director Mehta said that the co-disposal operation would not impact the lined landfill in terms of useful space and life.

ON MOTION by Vice Chairman Davis, SECONDED by Commissioner O'Bryan, the Board unanimously: (1) approved the operation of co-disposal of C&D debris and MSW in the lined area of the Class 1 Landfill and approved the rate proposal by Waste Management, Inc. of Florida to provide the co-disposal services including the fees outlined in their proposal; and (2) authorized the Chairman to execute the same, as recommended in the memorandum of October 3, 2008.

DOCUMENT IS ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD

#### **15.B.4. WASTE HAULING SERVICES FOR THE ENTERPRISE ZONE**

Director of Utility Services Erik Olson reviewed the background memorandum of October 15, 2008, to discuss the development and implementation of a proposed third Waste Hauling Franchise area, to be located in an Enterprise Zone in the unincorporated area of the County. He disclosed that there had been discussion regarding the new Waste Hauling Franchise area targeting small and disadvantaged local businesses, but the County Attorney's office had indicated that specifying criteria related to disadvantaged or minority businesses might not be available, although it might be possible to focus on local business participation. Director Olson then presented staff's recommendation to move ahead with the advertisement for the waste hauling services and receive applications, with the criteria to provide identical rates and equivalent levels of service as set forth in the existing Franchise Agreements with Waste Management and Treasure Coast Refuse, and utilizing the criteria established in Solid Waste Ordinance 204.12.

Commissioner Wheeler observed that the targeted businesses would be expected to comply with the standards established in Solid Waste Ordinance 204.12, but he favored establishing the third franchise area to help local, small, and minority businesses expand.

Director Olson revealed that currently, the criteria to apply for the third Waste Hauling Franchise were strictly set forth in the Solid Waste Ordinance 204.12. He acknowledged that the Commission could direct staff to tailor the advertisement, if the Attorney acknowledges that this option is available.

Administrator Baird suggested forming a committee to review the applications, and asserted that there could be a ratings system with extra points granted to local businesses. He added that the committee's ratings form would be brought back for Board review.

MOTION WAS MADE by Vice Chairman Davis, SECONDED by Commissioner Wheeler, to approve staff's recommendation to develop an advertisement for Waste Hauling Services within the unincorporated area of the Enterprise Zone, with the caveat to establish a point system to rate the applicants, who would receive additional points for having an office in the Enterprise Zone.

Responding to Commissioner Flescher's questions, Director Olson advised: (1) that the two existing franchise agreements for waste haulage would have to be modified, with the third enterprise zone removed from the agreement; and (2) that everyone has the ability to submit an application, but whether or not a business is located within that third enterprise zone, would be the "tie-breaker."

The Chairman CALLED THE QUESTION and the Motion carried unanimously. The Board authorized staff to move forward with the development of an advertisement for Waste Hauling Services within the unincorporated area of the Enterprise Zone utilizing the criteria as set forth in the Solid Waste Ordinance 204.12, with the caveat to establish a point system to rate the applicants, who would receive additional points for having an office in the Enterprise Zone.

**Ardra Rigby**, 8465 59<sup>th</sup> Avenue, related that over the past five years, his company, Capital Sanitation, has been trying to get waste hauling work with the County, and he felt that it was unfair that his company would now be required to bid on a small “piece of earth”. He noted that in the past, the Enterprise Zone was brought up as a way of allowing small minority firms to participate, and he alluded to past Board action wherein staff had been directed to negotiate with Treasure Coast Refuse, Waste Management, and Capital Sanitation. From that point on, he believed that things had gotten “muddied”, and he reiterated his firm’s ardent desire to obtain business in the Enterprise Zone.

Administrator Baird acknowledged Capital Sanitation’s interest in obtaining work with the County, and stated that he welcomed Capital’s application.

Discussion ensued as Attorney Collins, Mr. Rigby, and Commissioner Wheeler discussed correct process and procedures for obtaining work in the Enterprise Zone.

**George Geletko**, representing Waste Management as its Florida Governmental Affairs Director, 507 Lake Victoria Circle, Melbourne, Florida, shared some of the negative experiences he has had with sub-contractors, and stated he was not interested in going to sub-contracting. He

reminded the Board that he was not sure what the economic impact would be to his employees who live and provide service in the Enterprise Zone.

**Mr. Rigby** clarified that Capital Sanitation has never had any dealings with Waste Management in a sub contractual context.

**Joseph Paladin**, wanted to see two or three small Enterprise Zones opened up, to provide business opportunities for local people.

**Freddie Woolfork**, 4589 57<sup>th</sup> Avenue, Chairperson for Gifford Front Porch Revitalization Council, urged the Board to select Capital Sanitation for the work in the Enterprise Zone. He discussed the decline in local business in the area, and believed that Capital Sanitation could become a role model for other individuals who wish to be in business someday.

**Bill Rigby**, 8465 59<sup>th</sup> Avenue, supported his brother's plea to allow Capital Sanitation to be the third waste hauler for solid waste collection in the Enterprise Zone. He wanted to know what Florida law mandated that certain language, such as "minority" and "small business" could not be used in the proposal.

Attorney Collins explained that the requirement had more to do with Federal case law, than Florida Statutes. He declared that the trend in Federal case law is that affirmative action is not something looked favorably on - it is considered reverse discrimination.

**Bill Rigby** said that the Civil Rights Act governs all races, not one specific race. He stated that under Federal law, an individual is entitled to at least 10-15% work in the County, and he asked for Board support of his participation in that.

**Bob Johnson**, Coral Wind Subdivision, asked the Board to designate Capital Sanitation as a sole source contractor.

The Chairman CALLED THE QUESTION for the second time and the Motion carried unanimously.

**Bill Rigby** asked for clarification of the Motion, which was provided by Commissioner Wheeler.

ALL BACKUP DOCUMENTATION, RESOLUTIONS, AND ORDINANCES ARE ON FILE IN THE OFFICE OF THE CLERK TO THE BOARD AND ARE HEREBY MADE A PART OF THESE MINUTES

## **ADJOURNMENT**

There being no further business, the Chairman declared the meeting adjourned at 12:01 p.m.

ATTEST:

By: \_\_\_\_\_

Jeffrey K. Barton, Clerk

Wesley S. Davis, Vice Chairman

For: Sandra L. Bowden, Chairman

Minutes Approved: \_\_\_\_\_

MG/SWDD Minutes