

WALLINGFORD REGIONAL SOLID WASTE PROJECT
Serving Cheshire, Hamden, Meriden, North Haven and Wallingford
c/o Town of Wallingford, 45 South Main St., Wallingford, CT 06492
Tel: 203-294-2060; e-mail: solidwaste@wallingfordct.gov

May 20, 2021

TO: Sean Kimball, Town Manager, Cheshire
Curt Leng, Mayor, Hamden
Tim Coon, City Manager, Meriden
Michael Freda, First Selectman, North Haven
William W. Dickinson, Jr., Mayor, Wallingford

CC: Attorney Brendan Sharkey, representing Hamden
Chris Clark, representing Meriden
Attorney Jeffrey Donofrio, representing North Haven & Cheshire
Attorney Janis Small, representing Wallingford

FROM: Mark Bobman, Executive Director

RE: May 27, 2021, 1:00 p.m. Policy Board Special Meeting

The next Meeting of the Wallingford Regional Solid Waste Project Policy Board is scheduled to be held on Thursday, May 27, 2021 at 1:00 pm, Room 315, Wallingford Town Hall. Participation by teleconference is optional.

Call-in

(877) 402-9757
Passcode: 6395776#

Participants are advised to observe health and safety precautions pursuant to the Governor's Executive Orders and Department of Public Health guidance, including the wearing of masks and social distancing if appropriate.

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AGENDA – SPECIAL MEETING OF THE WRSWP POLICY BOARD
1:00 p.m. on May 27, 2021, Wallingford Town Hall Room 315
wearing of masks and social distancing may be required

Call to order – Chairman Mike Freda

- I. Motion to approve Minutes of the November 10, 2020 WRSWP Policy Board Special Meeting
- II. Motion to amend the Fiscal Year 2021 budget – transfer of funds from the *Wallingford Project Solid Waste Participating Towns' Reserve Fund* (Account #650 - funds held in trust with the Town of Wallingford acting as custodian) to the Town of Wallingford general fund (Account #211):
 - a. authorize the Town of Wallingford to transfer of \$70,614.00 for the Professional Services Agreement with BRRFOC, including appropriations and payment of the 4th quarter invoice (\$17,653.50); and
 - b. authorize the Town of Wallingford to transfer \$3,950 for Town of Wallingford administrative support.
- III. Motion to enter into Executive Session pursuant to Conn. Gen. Stat. §1-210(b)(1), §1-210(b)(4) and §1-200(6)(E):
 - a. Claims associated with interruption of contractual services and payments required under the Municipal Solid Waste Disposal Agreements
 - b. Privileged Attorney-Client correspondence
 - c. Chairman's discussions with members of the Bristol Policy Board matters concerning the Executive Director's Professional Services Agreement

PUBLIC SESSION

- IV. Motions and votes on matters discussed under Agenda Item III
- V. FY 2022 WRSWP Budget – none adopted and none currently proposed
- VI. Document retention & archiving – records of the WRSWP, Public Act 13-285 and 2014 CRRR/DEP Memorandum of Understanding
- VII. Topics and format for the next meeting

PUBLIC SESSION

- VIII. Motions and votes on matters discussed under Item III
- IX. Adjourn

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TO: Policy Board Members & Designated Representatives

FROM: Mark Bobman, Executive Director

SUBJECT: Thursday May 27 2021 Policy Board Special Meeting

DATE: May 20, 2021

The attached meeting agenda largely pertains to contractual negotiations, which presumably will lead to dissolution of the Policy Board. Contributions towards Policy Board activity has not been received since September 2019.

FY 2021 & FY 2022 BUDGET

I was informed that the Town of Wallingford Finance Department requested written authorization to transfer of \$74,564 in funds from the Wallingford Finance Department Fund 650 (*Wallingford Project Solid Waste Participating Towns' Reserve Fund*, the "Reserves") into Account 211 in order to reimburse the Town of Wallingford for amounts paid to the Bristol Policy Board pursuant to the Professional Services Agreement, and for administrative services provided by the Town of Wallingford. Approval of the motion is requested under Agenda Item II.

In addition to the current Professional Services Agreement with BRRFOC, it is requested the Policy Board appropriate funds from the Reserve Fund for purposes of mediation, amounts to be determined at the May 27 meeting.

The approved FY 2021 Budget made no reference to the absence of contributions from the contractor as required under Section 1.6 of the Municipal Solid Waste Disposal Agreements. Looking back to January 2020 when the budget was presented, the assignment of the Agreements to Country Holding Company, LLC was in effect, later revoked in May 2020 following a temporary disruption of services attributed to COVID-19 infections among the contractor's staff. At the time the budget was adopted a dispute between assignor and assignee was not anticipated, and appropriations for FY 2021 assumed there would be sufficient funds remaining in Account 211 to continue funding Policy Board activity, as well as payments to the Town of Wallingford. When payments were not received, the Policy Board continued to function under the assumption that reserves would serve as a backstop to cover expenses previously covered by the contractor's Policy Board contribution, however this was implicit at the time while discussions took place among the member towns and contractors, and not formally brought forth in the form of a recorded motion. Thus a motion is suggested as it appears in Agenda Item II.

DOCUMENT RETENTION & ARCHIVING – RECORDS OF THE WRSWP

I have initiated preliminary discussions with Board members regarding distribution of documents in electronic format in the custody of the Town of Wallingford. Since the records date back more than 10 years, it is difficult to distinguish which documents are exclusively associated with MIRA (formerly CRRRA), the Town of Wallingford, or those which impact all five member communities. An example of one important document is the 2004 Memorandum of Understanding (MOU) between CRRRA (now MIRA) and DEEP:

... the [DEEP] Post-Closure Obligations include inspecting, operating, and maintaining any landfill cover and any landfill gas management, leachate control, and groundwater monitoring system; monitoring landfill gas, groundwater, surface water and stormwater; mowing and snowplowing; performing environmental investigation and remediation, including any required corrective action; providing security and utilities (e.g., electricity, gas, water and telephone) necessary for the Post-Closure Obligations; satisfaction of any financial assurance obligation required by law regarding the Landfills; and preparing, certifying and submitting reports and notifications required by the permits, orders and approvals issued by the Commissioner or any federal or state governmental entity for the Landfills...

... Pollution Liability Insurance: To manage liabilities for hazardous substances at, under, or migrating from the Landfills, CRRA intends to procure pollution liability insurance on a continuing basis, If (i) pollution liability insurance is no longer commercially available, (ii) the cost of the pollution liability insurance exceeds \$300,000 per year (as adjusted by inflation after 2015), or (iii) the retention amount for the pollution liability insurance exceeds \$250,000 (as adjusted by inflation after 2015) then the parties will negotiate in good-faith options for managing pollution liability...

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), entities contributing waste to a Superfund site may be liable for cleanup as "potentially responsible parties", and throughout the U.S. this has been interpreted to include municipalities historically using landfills for disposal ("*arrangers and transporters of hazardous substances and on current and former owners of facilities where hazardous substances were disposed*"). While Public Act 13-285 and the MOU appear to provide a shield which protects the Policy Board communities, it is recommended the towns preserve records which demonstrate the state's ongoing responsibilities with respect to post-closure monitoring and maintenance of former CRRA landfills.

I will prepare an archive of electronic documents for distribution to Policy Board towns for your records; it is likely this will include duplicates of documents you may already possess.

I encourage your attendance and participation, and look forward to next week's meeting.

WALLINGFORD REGIONAL SOLID WASTE PROJECT POLICY BOARD

MINUTES OF THE NOVEMBER 10, 2020 SPECIAL MEETING

The Meeting of the Policy Board of the Wallingford Regional Solid Waste Project was held at Room 315, Wallingford Town Hall on November 10, 2020. Present at the meeting were Sean Kimball, Town Manager, Town of Cheshire; Attorney Brendan Sharkey representing the Town of Hamden; Tim Coon, City Manager, City of Meriden; Policy Board Chairman Michael Freda, First Selectman, Town of North Haven; Mayor William Dickinson, Jr., Town of Wallingford; participants included Al Smith, Jr., Attorney for the Town of Cheshire; Attorney Stephanie Dellolio, City of Meriden; Jeffrey Donofrio, Attorney for the Town of North Haven; Janis Small, Attorney for the Town of Wallingford; and Mark Bobman, WRSWP Executive Director.

The meeting was called to order at 9:08 a.m. by Chairman Michael Freda.

- I. A motion to authorize approve the Minutes of the September 10, 2020 Meeting was made by Mr. Coon, seconded by Mr. Sharkey; the motion was unanimously approved.
- II. A motion was made by Mayor Dickinson, seconded by Mr. Sharkey to enter into Executive Session pursuant to Connecticut Gen. Stat. §1-210(b)(1), §1-210(b)(4) and §1-200(6)(E), inviting town attorneys and Covanta representatives:
 - a. Local Market Average as defined in the Municipal Solid Waste Disposal Agreements
 - b. Proposed destinations for waste disposal and associated transportation costs
 - c. Contract negotiations and/or amendments
 - d. Claims associated with interruption of contractual services and payments
 - e. Recent privileged Attorney-Client correspondence

The Meeting resumed in Public Session, and there were no motions or actions taken in Executive Session.

- III. A motion to adjourn was made by Mr. Sharkey, seconded by Mayor Dickinson; the motion was unanimously approved, and the meeting adjourned at 9:50 am.

Mark Bobman, Executive Director
November 16, 2020