

# AMENDED AGENDA

VI. (A), (B), (B1)

REGULAR MEETING

SANTA FE SOLID WASTE MANAGEMENT AGENCY  
JOINT POWERS BOARD

FEBRUARY 17, 2011

12:00 P.M.

LEGAL CONFERENCE ROOM  
SANTA FE COUNTY COURTHOUSE  
102 GRANT AVENUE  
SANTA FE, NM

CITY CLERK'S OFFICE

DATE 2-14-11 TIME 9:29am

SERVED BY Randall Kipp

RECEIVED BY Randall Kipp

- I. Call to Order
- II. Roll Call
- III. Approval of Agenda
- IV. Approval of Minutes for Regular Meeting - January 20, 2011
- V. Matters from the Public
- VI. Matters from the Executive Director

## Action Items

- (A) Request for Approval of Amendment No. 1 to Professional Services Agreement with SCS Engineers of Bedford, TX, for Engineering Services (Air-Related Compliance) for the Landfill Gas Collection System at the Caja del Rio Landfill in the Amount of \$6,859.43.
  - (1) Approval of Budget Increase from 5503.100700.07000 (Landfill Gas Collection Reserve) to 52501.510300 (Professional Services) in the Amount of \$6,859.43.
- (B) Request for Approval of Amendment No. 1 to Professional Services Agreement with J. R. Miller & Associates, Inc. of Brea, CA, for Plan, Design, Construction Management, and Development of Operations Plan for a Permanent Household Hazardous Waste Collection Facility at the Buckman Road Recycling and Transfer Station in the Amount of \$47,160.00.
  - (1) Approval of Budget Increase from 5500.100700.07000 (Cash) to 52504.572960 (WIP Design) in the Amount of \$47,160.00.
- (C) Request for Approval of Agreement with the Bureau of Land Management for a Mineral Materials Contract for the Excavation and Sale of Basalt Rock at the Caja del Rio Landfill, and Authorizing the SFSWMA Executive Director to Act as the Contract Representative and Signatory Authority for Installment Payments.
- (D) Request for Approval of Annual Financial (Audit) Report for the Year Ended June 30, 2010.

## Informational Items

- (E) Overview of Santa Fe County Solid Waste Division (Patricio Guerrerortiz, Utilities Division Director, Santa Fe County).

**VII. Matters from the Board**

- (A) Election of Chair and Vice Chair.

**VIII. Executive Session**

- (A) Discussion of Pending or Threatened Litigation in Which the Santa Fe Solid Waste Management Agency is or May Become a Participant, Pursuant to NMSA 1978, §10-15-1(H)(7); Limited Personnel Matters Regarding the Executive Director, pursuant to NMSA 1978, §10-15-1(H)(2).

**IX. Next Meeting Date**

**X. Adjournment**

Anyone needing further information or requiring special needs for the disabled should contact Jodie Gonzales at (505) 424-1850, extension 120.

# AGENDA

## REGULAR MEETING

### SANTA FE SOLID WASTE MANAGEMENT AGENCY JOINT POWERS BOARD

FEBRUARY 17, 2011  
12:00 P.M.  
LEGAL CONFERENCE ROOM  
SANTA FE COUNTY COURTHOUSE  
102 GRANT AVENUE  
SANTA FE, NM

CITY CLERK'S OFFICE  
DATE 2-9-11 TIME 4:53 pm  
SERVED BY Randall Kyppenbrock  
RECEIVED BY [Signature]

- I. Call to Order
- II. Roll Call
- III. Approval of Agenda
- IV. Approval of Minutes for Regular Meeting - January 20, 2011
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SOLID WASTE MANAGEMENT AGENCY  
REGULAR BOARD MEETING  
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**MEETING OF THE  
SANTA FE SOLID WASTE MANAGEMENT AGENCY  
JOINT POWERS BOARD  
Legal Conference Room  
Santa Fe County Courthouse  
February 17, 2011**

**I. CALL TO ORDER**

A meeting of the City and County of Santa Fe Solid Waste Management Agency Joint Powers Board (SWMA) was called to order by Councilor Rosemary Romero, Chair, on Thursday, February 17, 2011, at approximately 12:00 noon, in the Legal Conference Room, Santa Fe County Courthouse, 102 Grant Avenue, Santa Fe, New Mexico.

**II. ROLL CALL**

**MEMBERS PRESENT:**

Councilor Rosemary Romero, Chair  
Commissioner Kathy Holian Y  
Commissioner Daniel Mayfield  
Councilor Ronald S. Trujillo  
Commissioner Virginia Vigil  
[Vacancy]

**STAFF PRESENT:**

Randall Kippenbrock, Executive Director – SWMA  
Mark Baker and Justin Miller  
Melessia Helberg, Stenographer

There was a quorum of the membership in attendance

**III. APPROVAL OF THE AGENDA**

Responding to the Chair, Mr. Kippenbrock said the Amended Agenda includes some additional punctuation, but the main change is in Item VI(B)(1) which changes the transfer of funds to "WIP Design" instead of "Legal Services."

**MOTION:** Commissioner Holian moved, seconded by Councilor Trujillo, to approve the Amended Agenda as presented.

**DISCUSSION:** Mr. Kippenbrock asked to postpone Item # VII(E) to the next meeting.

**RESTATED MOTION:** Commissioner Holian moved, seconded by Councilor Trujillo, to approve the Amended Agenda as amended.

**VOTE:** The motion was approved unanimously on a voice vote.

#### **IV. APPROVAL OF THE MINUTES – JANUARY 20, 2011**

**MOTION:** Councilor Trujillo moved, seconded by Commissioner Holian, to approve the minutes of the regular meeting of January 20, 2011

**VOTE:** The motion was approved unanimously on a voice vote.

#### **V. MATTERS FROM THE PUBLIC**

Mark Baker said this will be his last meeting, and introduced Justin Miller who will be taking over as the law firm's representative to SWMA. Mr. Baker said he has enjoyed working with the Board.

Mr. Miller said he looks forward to working with this Board.

Regina Wheeler said the new household hazardous waste facility won't be built until September, although it was hoped to have a special pickup day in conjunction with a Spring opening of the new building. She said she is working with Randall on how to hold a special day in the Spring, and asked for suggestions from the Board.

Mr. Kippenbrock said an RFP will be submitted tomorrow for the household hazardous contractor to help with training, grand opening and disposal of waste at the new facility. He believes we will be able to have a special Spring day as opposed to being in the Fall. If you want, he can bring that back to the next meeting.

Chair Romero asked Mr. Kippenbrock to add this as an information item at the next meeting.

Ms. Wheeler said there is an article in the newspaper today about Mike Smith's efforts to find a market for some of the end of the line trash, and if the market holds up, there will be 240 tons per year for sale.

## **VI. MATTERS FROM THE EXECUTIVE DIRECTOR**

### **ACTION ITEMS**

- A) REQUEST FOR APPROVAL OF AMENDMENT NO. TO PROFESSIONAL SERVICES AGREEMENT WITH SCS ENGINEERS OF BEDFORD, TEXAS, FOR ENGINEERING SERVICES (AIR-RELATED COMPLIANCE) FOR THE LANDFILL GAS COLLECTION SYSTEM AT THE CAJA DEL RIO LANDFILL IN THE AMOUNT OF \$6,859.43.**
- (1) APPROVAL OF BUDGET INCREASE FROM 5503.100700.07000 (LANDFILL GAS COLLECTION RESERVE) to 52501.510300 (Professional Services) in the amount of \$6,859.43.**

Mr. Kippenbrock presented information regarding this matter from his Memorandum of February 8, 2011, with attachments, to the SFSWMA Joint Powers Board, which is incorporated herewith to these minutes as Exhibit "1." Please see Exhibit "1" for specifics of this presentation.

Commissioner Vigil asked if this amount is within the budget, and Mr. Kippenbrock said it is.

**MOTION:** Commissioner Vigil moved, seconded by Councilor Trujillo, to approve Item VI(A) request for approval of Amendment No. 1 to Professional Services Agreement with SCS Engineers, Bedford, Texas, for engineering services for the landfill gas collection system at the Caja del Rio Landfill in the amount of \$6,859.43, and Item VI(A)(1) the request for budget increase in the amount of \$6,859.43.

**VOTE:** The motion was approved unanimously on a voice vote.

- (B) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT WITH J. R. MILLER & ASSOCIATES, INC., OF BREA, CALIFORNIA, FOR PLAN, DESIGN, CONSTRUCTION MANAGEMENT AND DEVELOPMENT OF OPERATIONS PLAN FOR A PERMANENT HOUSEHOLD HAZARDOUS COLLECTION FACILITY AT THE BUCKMAN ROAD RECYCLING AND TRANSFER STATION IN THE AMOUNT OF \$47,160.00**
- (1) APPROVAL OF BUDGET INCREASE FROM 5500.100700.07000 (CASH) TO 52501.510200 (WIP DESIGN) IN THE AMOUNT OF \$47,160.00**

Mr. Kippenbrock presented information regarding this matter from his Memorandum of February 13, 2011, with attachments, to the SFSWMA Joint Powers Board, which is incorporated herewith to these minutes as Exhibit "2." Please see Exhibit "2" for specifics of this presentation.

Chair Romero gave a brief history and background of this issue to this point. She asked Mr. Kippenbrock to speak to the days of operation under the new facility as compared with the current once a year event.

Mr. Kippenbrock said the facility will be open 2 days a week on Fridays and Saturdays, and in the future it is anticipated that the contractor will have a hotline for the smaller businesses to call and make special arrangements to pick up their waste.

**MOTION:** Commissioner Holian moved, seconded by Councilor Vigil, to approve Item VI(B)(1), the request for approval of the budget increase in the amount of \$47,160.00.

**VOTE:** The motion was approved unanimously on a voice vote.

**MOTION:** Commissioner Holian moved, seconded by Councilor Trujillo, to approve Item VI(B), request for approval of Amendment No. 1 to Professional Services Agreement with J. R. Miller & Associates, Brea, California, for plan, design, construction management and development of an operations plan for a permanent household hazardous waste collection facility at the Buckman Road Recycling and Transfer Station in the amount of \$47,160.00.

**DISCUSSION:** Commissioner Vigil asked the physical location of the proposed facility.

Mr. Kippenbrock said, as you go through pay station, as you make the turn at the administration building it is in the corner where the current recycling drop-off for residents is located. He said the current containers will be replaced by new containers purchased through a grant. He said those will be to the left as you come through the middle gate, and people will be able to make a u-turn into the parking area, but they will not have to go through the quonset hut. He said the containers are located 300-400 feet before that.

Commissioner Vigil asked if it will be manned.

Mr. Kippenbrock said it will be unmanned, but staff will keep an eye on it. He said if it is kept clean and there is proper signage, people will keep it clean. It is no different from the unmanned location currently in the back. The only difference is that people don't have to go through the pay station. He wants to put in low profile containers so people don't have to use the catwalk to toss their recycling.

Responding to Commissioner Vigil, Mr. Kippenbrock said the recycling will be in the front and household hazardous waste will be in the back.

Chair Romero suggested that this Board consider holding a meeting at the site after the Legislature, probably in April or May, so the Board can visualize the new facility location.

**VOTE:** The motion was approved unanimously on a voice vote.

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Chair Romero introduced Juan Rios, Constituency Services Liaison for Commissioner Mayfield.

\*\*\*\*\*

**(C) REQUEST FOR APPROVAL OF AGREEMENT WITH THE BUREAU OF LAND MANAGEMENT FOR A MINERAL MATERIALS CONTRACT FOR THE EXCAVATION AND SALE OF BASALT ROCK AT THE CAJA DEL RIO LANDFILL, AND AUTHORIZING THE SFSWMA EXECUTIVE DIRECTOR TO ACT AS THE CONTRACT REPRESENTATIVE AND SIGNATORY AUTHORITY FOR INSTALLMENT PAYMENTS.**

Mr. Kippenbrock presented information regarding this matter from his Memorandum of February 13, 2011, with attachments, to the SFSWMA Joint Powers Board, which is incorporated herewith to these minutes as Exhibit "3." Mr. Kippenbrock noted there is a typographical error in his Memorandum – the performance bond is for \$6,900, and not \$46,900. Please see Exhibit "3" for specifics of this presentation.

Commissioner Vigil asked Mr. Baker if he reviewed the proposed agreement, and Mr. Baker said he did.

Commissioner Vigil asked if this is standard practice to have a performance bond.

Mr. Baker said yes. It is his understanding that this is the way they work out the interim step where they're working for a long term lease. He said it is basically a form contract and they can insert "performance bond," and "\$6,900." He said once they got the big problem resolved, the BLM has been very cooperative in working on things with SWMA. He said it is his understanding that this is what the BLM expects.

Commissioner Vigil asked if the performance bond is placed in the event they don't received the amount within the contract arrangement, or why is it drawn down.

Mr. Baker said his understanding is that the performance bond would be in place only if we defaulted on the contract and failed to pay the BLM for the minerals sold under categorical exclusion.

Commissioner Vigil asked what is the "categorical exclusion."

Mr. Baker said this is the language from the regulations which allows us to enter into this type of arrangement when they haven't done all steps which need to be done to go into a long term lease. He said this is like their "stop gap" measure under federal regulations. He said normally, if we started negotiating with the BLM before the landfill was developed, there would have been an environmental analysis done before they would enter into an agreement. This Agreement allows them to come from a different posture. It is what BLM's regulations allow them to do to bridge the gap until we can enter into a contract.

Commissioner Vigil asked if this was negotiated.

Mr. Baker said they sat with BLM and negotiated the categorical exclusion 4-5 months ago and worked out terms, so we could keep removing and selling the rock without interruption. He said when they negotiated the broader settlement, part of that was beginning a conversation about how to deal with the interim period so there was no confusion and the rock could continue to be sold.

Chair Romero said she and Commissioner Holian were involved in the negotiations. She said the federal government, under the broader Environmental Policy Act, has the authority to decide whether or not to undertake a very expensive environmental impact statement, an environmental assessment, or to decide to do a categorical exclusion. She said it is to our benefit that the federal government deemed that there was no violation of those policies and decided to do a categorical exclusion.

Commissioner Vigil asked if there is a comparison of this kind of market – does the federal government have contracts with others in solid waste management.

Mr. Baker said this is a strange circumstance, and his impression is that the BLM had to step back and determine how to proceed, and that this situation hasn't arisen before.

Chair Romero said they could have had this situation years ago with Northern Solid Waste Authority, but they decided to proceed differently and there were different issues. She said this is a very unusual situation.

Commissioner Vigil asked if they market the basalt anywhere else.

Mr. Baker there are some sales of basalt, but not under the same circumstances, and they do it on a "rock specific basis when they analyze the quality and nature of the rock. That's what they go into when they determine what it can be used for." He said, however, it was in the way, and we have this stockpile of a resource that nobody otherwise would be marketing.

Commissioner Vigil said an ancillary issue is that SWMA asked if some of the rock would be available to be used for public utilities for the City and the County and such. She asked if that issue is off the table.

Mr. Kippenbrock said once we sign this agreement, then we can get into the free-use at sixty-nine cents royalty per ton, noting this is a gray area, and the only one which isn't a gray area is the internal use.

Commissioner Vigil said, then we need to clear this up and then we can look at other possibilities.

Mr. Kippenbrock said the closest BLM lease to this one is for the red rock.

Commissioner Mayfield asked if we can determine that we can have free use for public works before we enter into this contract with the BLM.

Mr. Kippenbrock said he was told that has to be done after this Agreement, and that the issue of free-use is a separate agreement from this one. He said he was told this by Joe Mirabel, Geologist, for BLM. He said once we enter into this contract, we can then move forward with the free-use contract.

Chair Romero said then once we enter into the Agreement, there will be a determination of the quality of the basalt and we can determine where and how it can be used.

Mr. Kippenbrock said it comes down to the definition of being commercial or governmental. He is going to push for the use of the material out the gate, without being be subject to the BLM royalty of sixty-nine cents per ton, if it is being used by the City, the County or the State. He believes we can get this resolved.

Commissioner Mayfield who is selling the basalt now.

Mr. Kippenbrock said very little was sold since October, and it is generally local contractors, noting that someone came in yesterday and may purchase 4,000 tons for their Sandia railrunner train.

Responding to Commissioner Mayfield, Mr. Kippenbrock said the base course materials are being sold at \$6.50 per ton, which is market rate. However, it is important to note that there isn't a whole lot going on industry-wide.

Commissioner Mayfield asked if the Agreement is approved by this Board, how long before negotiations will begin.

Mr. Kippenbrock said as soon as possible. He noted that the City and County can use the boulders which were removed before the contract for Parks and Roads project. He said the issue with the free use is the royalty to be paid to the BLM. He said the contractor has to pay the processing fee to crush the rock and cover it for sale at \$6.50, noting \$1.50 will come to the Agency and the Agency will pay 69¢ to the BLM. He said therefore it isn't 100% free. He is certain if the County/City approached Del Hur directly, they can get a better price than \$6.50. He said the larger the quantity, the lower the price.

Commissioner Mayfield asked how much currently is stockpiled, and could we just stockpile this until a determination is made.

Mr. Kippenbrock said there probably is close to 900 to 1 million tons, a 10 year supply. He said there is approximately 200,000 tons on the ground crushed for road base and asphalt. He said the Board needs to keep in mind that it takes time to do things with BLM, and he would not be surprised if it takes several months to get this free-use out of it, although he was told it would be a matter of weeks. He feels that our attorneys need to work with the BLM attorneys to make sure we are comfortable with their definition of what they consider "free use," so we don't have to pay a royalty to BLM.

Commissioner Vigil asked if it would be better, strategically, to try to negotiate this before approving the Agreement.

Mr. Baker said he will see if they are willing to do this. However, this is a short term solution and we still will have to negotiate the long term contract, noting we are dealing with only 50,000 tons, and we will have more leverage in negotiating the long-term agreement. He views this as just as a means to allow the status quo to go forward, and it allows Del Hur to continue to operate and to deal with basalt without any uncertainty regarding the federal government's claims as to the ownership of the rock. He said it would be worthwhile to broach it with them to see if we can get more information before approving the Agreement, but it shouldn't be a deal breaker in the categorical exclusion.

Commissioner Vigil asked if it is for a term or for a term and/or an amount.

Mr. Kippenbrock said it is both, it is for two years or the Agreement, whichever comes first.

Commissioner Vigil asked if we will get a release of liability once all conditions are met, or if this is necessary.

Mr. Baker said that language is already captured in the settlement agreement.

Chair Romero said the action we're taking is to move forward with clarity, while resolving other issues as we move forward.

**MOTION:** Commissioner Holian moved, seconded by Councilor Trujillo, to approve the Agreement with the BLM for a mineral materials contract for the excavation and sale of basalt rock at the Caja del Rio Landfill, and authorize the SFWMA Executive Director to act as the contract representative and signatory authority for installment payments.

**VOTE:** The motion was approved on a voice vote, with Commissioner Vigil, Commissioner Holian and Councilor Trujillo voting in favor of the motion, and Commissioner Mayfield voting against.

**(D) REQUEST FOR APPROVAL OF ANNUAL FINANCIAL (AUDIT) REPORT FOR THE YEAR ENDED JUNE 30, 2010.**

Mr. Kippenbrock presented information regarding this matter from his Memorandum of , 2011, with attachments, to the SFSWMA Joint Powers Board, which is incorporated herewith to these minutes as Exhibit "4". Mr. Kippenbrock highlighted the Audit Report as detailed in his Memorandum [Exhibit "4 "]. Please see Exhibit "4" for specifics of this presentation.

Chair Romero said she and Mr. Kippenbrock attended the exit interview, and it is important to note that there are no exceptions.

Mr. Kippenbrock noted the exit interview was held on November 23, 2010, and was attended by Chair Romero, SWMA employee Rita Fiore Lucero, City Finance employee Teresita Garcia, and himself.

**MOTION:** Commissioner Vigil moved, seconded by Commissioner Holian, to approve the Annual Financial Audit Report for the fiscal year ending June 30, 2010.

**VOTE:** The motion was approved unanimously on a voice vote.

## **INFORMATIONAL ITEMS**

### **(E) OVERVIEW OF SANTA FE COUNTY SOLID WASTE DIVISION. (PATRICIO GUERRERORTIZ, UTILITIES DIVISION DIRECTOR, SANTA FE COUNTY)**

This item is postponed to the next meeting of the Board.

## **VII. MATTERS FROM THE BOARD**

### **A. ELECTION OF CHAIR AND VICE CHAIR**

**MOTION:** Commissioner Holian moved, seconded by Councilor Trujillo, that Councilor Rosemary Romero be re-elected as Chair, and Commissioner Virginia Vigil be elected as Vice-Chair, of the Santa Fe Solid Waste Management Agency Joint Powers Board .

**DISCUSSION:** Chair Romero said this has been a learning process for her, noting last year the BLM issues were huge. She said she is honored, and willing to continue to accept the responsibilities as Chair of the SWMA Board.

Commissioner Vigil said she also is willing to accept the nomination.

**VOTE:** The motion was approved unanimously on a voice vote.

### **B. OTHER**

Commissioner Mayfield noted the vacancy on the SWMA Board. He asked if it would be possible to consider appointing a citizen's advisory member to this Board, noting there is a citizen's advisory member on the BDD Board.

Chair Romero said this has been discussed, but the authority of this Board is somewhat different than that of the BDD. She said there has been a City vacancy for some time, perhaps due to the fact that the Governing Body is over-committed in other areas. She said they are still trying to get someone to agree to serve, and there should be a big push for another member after the 2012 elections. She said the City is looking carefully at all of its Boards and Committees with an eye to consolidation. She said the City will continue to revisit this.

Commissioner Mayfield said he still would like a citizen advisory member on the Board.

Mr. Kippenbrock said that that would require a change in the JPA, noting this was explored at one time.

**VII. EXECUTIVE SESSION**

- A. DISCUSSION OF PENDING OR THREATENED LITIGATION IN WHICH THE SANTA FE SOLID WASTE MANAGEMENT AGENCY IS OR MAY BECOME A PARTICIPANT, PURSUANT TO NMSA 1978, §10-15-1(H)(7); LIMITED PERSONNEL MATTERS REGARDING THE EXECUTIVE DIRECTOR, PURSUANT TO NMSA 1978, §10-15-1(H)(2)**

**MOTION:** Commissioner Holian moved, seconded by Commissioner Mayfield, to go into Executive Session for the discussion of pending or threatened litigation in which the Santa Fe Solid Waste Management Agency is or may become a participant, specific to L & L, pursuant to NMSA 1978, §10-15-1(H)(7) and limited personnel matters, pursuant to NMSA 1978, §10-15-1(H)(2).

**VOTE:** The motion was approved on the following Roll Call Vote:

**For:** Commissioner Holian, Commissioner Vigil, Councilor Trujillo and Commissioner Mayfield.

**Against:** None.

The Board went into executive Session at 12:40 p.m.

**MOTION:** At 12:55, Commissioner Holian moved, seconded by Commissioner Mayfield, to go back into open session, stating this was an update, the only items which were discussed in executive session were those items which were on the agenda, and no action was taken.

**VOTE:** The motion was approved unanimously on a voice vote.

**IX. NEXT MEETING DATE**

Chair Romero said the next meeting will be on March 17, 2011.

**X. ADJOURNMENT**

All items on the agenda were completed, and the meeting was adjourned at approximately 1:00 p.m.

**APPROVED BY:**

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**Rosemary Romero, Chair**

ATTESTED TO:

\_\_\_\_\_  
Yolanda Y. Vigil, City Clerk

SUBMITTED BY:

  
\_\_\_\_\_  
Melessia Helberg, Committee Stenographer