

POLLUTION CONTROL FINANCING AUTHORITY
OF WARREN COUNTY

MINUTES OF REGULAR MONTHLY MEETING

March 20, 2017

Chairman James Cannon called the regular monthly meeting of the Pollution Control Financing Authority of Warren County to order at approximately 9:30 am.

Authority Members present: Bud Allen, Marc Pasquini (via phone conference), Joseph Pryor, Richard Mach (via phone conference) and James Cannon.

ROLL CALL: Mr. Allen - Present
 Mr. Pasquini - Present (via phone conference)
 Mr. Pryor - Present
 Mr. Mach - Present (via phone conference)
 Mr. Cannon - Present

Also present: James Williams, Director of Operations; Dan Olshefski, Chief Financial Officer; Brian Tipton, General Counsel; Jamie Banghart, Administrative Supervisor; Crystal Gild, Recording Secretary.

The Pledge of Allegiance was led by Chairman Cannon.

Mr. Cannon read the following statement: “Adequate notice of this meeting of March 20, 2017 was given in accordance with the Open Public Meetings Act by forwarding a schedule of regular meetings of the Pollution Control Financing Authority of Warren County (PCFAWC) to the Warren County Clerk, the Warren County Board of Chosen Freeholders, the Express Times, and by posting a copy thereof on the bulletin board in the office of the PCFAWC. Formal action may be taken by the PCFAWC at this meeting. Public participation is encouraged”.

MINUTES

Mr. Cannon presented the regular monthly meeting minutes from February 27, 2017.

Mr. Cannon questioned a statement made on page 52 of the minutes regarding two letters from the state stating that a Phase 1A was not necessary. Mr. Cannon also questioned page 52 of the minutes regarding Mr. Cannon not recalling Cornerstone letting the board know that a Phase 1A was required. After a brief discussion it was decided to amend paragraph 2 on page 52 of the minutes by removing words to read: “Mr. Cannon and Mr. Pryor stated that the Phase 1A is only required if a Land Use Permit is required” and paragraph 3 on page 52 as well to read: “Mr. Beebe stated that he recalls addressing the board and notifying them that the Phase Phase 1A needed to be completed.”

Mr. Pryor noted that on page 29, paragraph 2 of the minutes that “Harold” in “New Jersey Harold” should be changed to “Herald” and read “New Jersey Herald”. Mr. Pryor also noted that in the last sentence of the same paragraph “The Express Times” should be changed to read “The Star Ledger” Mr. Mach seconded Mr. Pryor’s changes.

Mr. Pryor stated that the first sentence in the first full paragraph on page 34 of the minutes should be changed to read: “Mr. Pryor stated that there used to be a recycling incentive for individuals to recycle because residents were charged by the size of the container used for household garbage.”

Mr. Pryor noted that on page 38, paragraph 5 of the minutes the word himself is typed incorrectly and asked for the word to be corrected.

Mr. Mach stated that the word “under” in paragraph 2 on page 30 of the minutes should actually read “younger” and asked for this correction to be made.

Mr. Pryor made a motion to approve the revised regular monthly minutes of February 27, 2017 as presented, seconded by **Mr. Allen**.

ROLL CALL:	Mr. Allen	-	Yes
	Mr. Pasquini	-	Yes
	Mr. Pryor	-	Yes
	Mr. Mach	-	Yes
	Mr. Cannon	-	Yes

Mr. Cannon presented the executive session meeting minutes from February 27, 2017.

Mr. Allen made a motion to approve the executive session minutes from February 27, 2017 as presented, seconded by **Mr. Pryor**.

ROLL CALL:	Mr. Allen	-	Yes
	Mr. Pasquini	-	Yes
	Mr. Pryor	-	Yes
	Mr. Mach	-	Yes
	Mr. Cannon	-	Yes

CORRESPONDENCE

Correspondence regarding D. Lovenberg will be discussed later in the meeting with Mr. Tipton.

Mr. Cannon asked for the record to show that “Warren County is the worst recycling county in the entire state of New Jersey”.

Mr. Cannon stated that there is a recycling breakfast coming up in the beginning of April that he will be attending.

Mr. Cannon asked Mr. Williams to present the information regarding the correspondence received about the Tilcon meeting. Mr. Williams stated that the Warren County Planning Board meeting will be next Monday, March 27, 2017 at 8pm. Mr. Cannon stated that the Planning Board meeting would have Tilcon's' re-submitted application on the agenda and that he would like to have at least one representative from the PCFA at the meeting.

PUBLIC COMMENTS (AGENDA ITEMS ONLY)

None

FINANCE (Dan Olshefski)

Mr. Olshefski stated that there was a revision made to lines 1-3 of the February financial report. He stated the following: Current Year to Date Waste Volume is 15,590 not 8,232, Prior Year to Date Waste Volume is 13,910 not 7,429 and that the Increase is 1,680 (12.1%) not 803 (10.8%).

Mr. Olshefski stated that due to not having contracts this year with two of the larger haulers that volumes and revenues will decrease throughout the year.

Mr. Olshefski noted that the cover has decreased by 2,000 tons (26%) and that it is currently at 5,872 tons and last year at this time it was at 7,960 tons.

Mr. Olshefski stated that he thinks that the cover should be added to the financial report going forward (year to date only) as a separate line item and the board agreed.

Mr. Olshefski stated that the receivables are in line with the 2016 receivables.

Mr. Olshefski asked if the 12/31/2016 comparison is a good comparison. Mr. Williams stated that it is really not a good comparison. Mr. Olshefski suggested doing a prior month comparison going forward and Mr. Pryor stated that this would be a good idea.

Mr. Olshefski stated that regarding the budget we are in line so far. He noted that there is good news regarding the leachate costs being down even more this year than they were last year.

Mr. Olshefski stated that payments being made by customers via credit card is up to 46% and is almost 50/50 with cash and check. He noted that this is a good thing.

Mr. Olshefski stated that he will keep an eye on the budgeted amount for the medical insurance because the retirement was not included in the 2017 medical insurance budget.

On a motion by **Mr. Allen**, seconded by **Mr. Pryor**, the following resolution was adopted by the Pollution Control Financing Authority of Warren County at a meeting held on *March 20th, 2017*.

RESOLUTION
R-03-01-17
To Pay Bills – March 20, 2017

WHEREAS, the Pollution Control Financing Authority of Warren County has been presented with invoices for services, supplies and other materials rendered to it or on its behalf;

NOW, THEREFORE, be it resolved by the Pollution Control Financing Authority of Warren County that the following bills be paid:

See Attached

ROLL CALL:	Mr. Allen	-	Yes
	Mr. Pasquini	-	Yes
	Mr. Pryor	-	Yes
	Mr. Mach	-	Yes
	Mr. Cannon	-	Yes

We hereby certify Resolution to Pay Bills in the amount of **\$277,543.11** to be a true copy of a resolution adopted by the Pollution Control Financing Authority of Warren County on the *20th* day of *March, 2017*.

Crystal Gild
Recording Secretary

James Williams
Director of Operations

PERSONNEL

Mr. Williams presented Agenda item A-2 regarding naming Patrick Jakub to be promoted from Apprentice Operator to Equipment Operator. Mr. Williams stated that the 2017 budget was approved to allow for the Equipment Operator position to be filled for a wage of up to \$20 per hour.

Mr. Cannon asked if there was a range for the hourly rate of the position?

Mr. Williams answered, no, and that he decided to give an hourly rate that was below the hourly rate of the current Equipment Operators. He noted that we should come up with hourly rate ranges for positions going forward and that the PCFA used to have pay ranges for all of the positions. Mr. Cannon agreed.

Mr. Cannon asked if having a position budgeted for \$20 per hour and not paying that amount if there would be an issue? Mr. Pryor stated that the \$20 per hour is for budgeting purposes only and Mr. Williams agreed.

Mr. Williams stated that it is his recommendation to promote Patrik Jakub to Equipment Operator at a rate of \$18.25 per hour.

With no objections Mr. Cannon called for a motion.

On a motion by **Mr. Mach**, seconded by **Mr. Pryor**, for Patrik Jakub to be promoted from Apprentice Operator to Equipment Operator at a rate of \$18.25 per hour.

ROLL CALL:	Mr. Allen	-	Yes
	Mr. Pasquini	-	Yes
	Mr. Pryor	-	Yes
	Mr. Mach	-	Yes
	Mr. Cannon	-	Yes

PRESENTATIONS

None.

Mr. Cannon asked for an update regarding the leachate evaporator company. Mr. Williams stated that he had a conversation with the company last week and that the company is going to reach out to Elizabethtown Gas regarding the possibility of running a gas line down to the landfill. Mr. Williams noted that this could create the opportunity for us to install a larger evaporator which would be good.

Mr. Cannon asked if the evaporator company was going to be negotiating with Elizabethtown Gas on our behalf? Mr. Williams answered no, that they are just looking to see if Elizabethtown Gas would run a line to the landfill and that the company would be making a presentation to the board in the future.

Mr. Cannon stated that Mr. Williams should contact Elizabethtown Gas directly and speak to them regarding the Authority's interest in having a gas line ran to our property. Mr. Allen stated that he would

provide Mr. Williams with contact information for Elizabethtown Gas and that he will pass on the information regarding the rebates as well. Mr. Williams expressed his appreciation and said that this would be a great start.

FACILITIES/RECYCLING

Mr. Williams reported that there were no issues with Treatment Plant Operations.

Mr. Williams stated that T&M Associates was originally supposed to provide a report for the board and give a presentation at today's meeting. Mr. Williams stated that T&M has had a delay and that they are in the process of getting the report together and that they should have the report to the PCFA for the next meeting. He also stated that T&M is putting together a proposal for additional bench testing. He noted that based on the conversations he has had with them that the proposal for the bench testing could be for approximately \$100,000.

Mr. Cannon stated that he thinks the board needs to have a conversation with T&M regarding the parameters that the board had given them previously.

Mr. Williams stated that hopefully T&M will be present for the April meeting.

Mr. Williams stated that there were no issues with Landfill Operations.

Mr. Williams stated that there were no issues with the H₂S removal system.

Mr. Williams stated that there were no changes with the Solar Panel Project.

Mr. Williams stated that there were no changes with Agenda item A-3, the Solid Waste Disposal fees and that there are no upcoming contracts.

Mr. Williams presented the board with copies of letters and invoices sent to D. Lovenberg regarding their invoices in arrears. He noted that Mr. Tipton has been kept in the loop regarding this issue. Mr. Williams stated that the last letter was sent to D. Lovenberg this morning and that as of now 4 certified letters have been sent which are being received by D. Lovenberg because they are signing the return receipt. Mr. Williams stated that he believes that we are in the position to have legal counsel involved and asked Mr. Tipton to present the available options.

Mr. Cannon noted that the first letter regarding arrears should be sent to haulers by the 45th day of non-payment. Mr. Cannon also mentioned possibly picking a set number or percentage that the haulers bring in and then automatically deny them entry to the Landfill once that limit has been met if not paid.

Mr. Williams stated that letters are going out prior to the 60 day cut off and Mrs. Banghart stated that the first letter is being sent at 45 days past due.

Mr. Olshefski stated that invoices are ran on Mondays and that invoices are being sent out in a timely manner. He also noted that the past due invoices are being caught early. Mr. Olshefski stated that he would like to come up with a way to lower our risk level since we are not a COD Authority.

Mr. Pryor asked what the contracts state regarding cutoffs? Mr. Williams answered that the contracts state that after 60 days of nonpayment the hauler is cutoff and that Lovenberg was cutoff at 60 days.

Mr. Olshefski asked how long D. Lovenberg has been doing business with the PCFA? Mr. Williams answered, approximately 5-6 years.

Mr. Cannon stated that we can use the current issues with this company to set precedent if we need to make changes within the contracts.

Mr. Pryor asked if we use credit reports? He suggested reporting D. Lovenberg to the credit bureau.

Mr. Allen asked Mr. Tipton what the legal response to this situation would be?

Mr. Tipton stated that he would need to file a complaint on our behalf. He asked if anyone has tried to contact D. Lovenberg via telephone? Mr. Williams and Mrs. Banghart both answered no. Mr. Tipton recommended attempting to contact D. Lovenberg via telephone before taking legal action. Mr. Williams stated that he would make the phone call right after the meeting.

Mr. Tipton recommended that the PCFA reach out to the local community and other haulers to see if the hauler is even still in business.

Mr. Tipton stated that the only legal step that could be taken is to file a complaint with the Warren County Superior Court and try to get a judgement. He stated that the hauler may not respond to the complaint depending on how bad their situation is. Mr. Pryor noted that there is no guarantee of getting the money even with a judgement.

Mr. Allen stated that his original question was regarding what moving forward would entail. Mr. Tipton answered that he would draft a complaint and file it with the Superior Court and that D. Lovenberg would have 35 days to respond to the complaint. He stated that if they do not respond to the complaint he would ask for a movement for default judgement and that in about 30 days the judgement would be granted. Mr. Tipton stated that the next step would be to file the judgement in Trenton and try to act on said judgement. He noted that there would need to be a search ran for their bank accounts. He stated that if the company is out of business this would be the final step and that the issue would not be able to be resolved.

Mr. Cannon asked if we charge interest on late payments? Mr. Williams answered, yes, 1.5%.

Mr. Pryor asked if we would have been notified if the hauler had filed for bankruptcy? Mr. Tipton answered yes, but that most of the time if a company stops operating they do not even bother filing for bankruptcy.

Mr. Cannon asked if the 1.5% interest charge is an option? He also noted that the interest charge should be automatic at this point. Mr. Williams stated that the interest charge is not only an “option” but that it is listed as a fact in the hauler contracts. Mr. Cannon asked if the total on the letter provided to the board today reflected the 1.5% interest charge? Mr. Williams answered, no. Mr. Cannon stated that we need an updated letter that includes the interest charge.

Mr. Pryor stated that at 60 days past due every hauler should automatically pay the 1.5% interest and Mr. Allen agreed. Mr. Pryor stated that in good business practice the interest should automatically be applied as stated in the contract.

Mr. Williams stated that he will call D. Lovenberg after today’s meeting and that if there is still no response the next letter would be sent out on Monday and include the interest amount.

The members of the board decided that if D. Lovenberg does not respond within 5 days, they give Mr. Tipton permission to begin taking legal action.

Mr. Cannon asked if anything came up in D. Lovenberg’s credit report when it was ran? Mr. Williams answered, no, and that the last credit report on them was probably ran 5 years ago when they first started coming in.

Mr. Cannon suggested running credit reports on all haulers annually. Mr. Pryor agreed. Mr. Cannon noted that the credit reports should be ran at year-end and Mr. Williams agreed and noted that the reports would then be ran prior to the contracts going out. The members of the board all agreed that this should be the policy going forward.

Mr. Cannon reiterated that the decision has been made that if D. Lovenberg does not respond within 5 days that Mr. Tipton will begin legal proceedings.

Mr. Pasquini asked if the next form of contact with D. Lovenberg was going to be made by letter? Mr. Cannon answered no, that Mr. Williams would be calling the company.

Mr. Cannon provided the board with an update regarding the onsite meeting with the DEP. Mr. Cannon stated that he and Mr. Williams showed the DEP maps of the areas in question and then took them on a field visit to the Landfill.

Mr. Cannon noted that the DEP representatives on site did not feel the areas they were shown were considered Wetlands. Mr. Cannon stated that the DEP verbally confirmed that the areas they were shown did not meet the 3 criteria to be classified as Wetlands. Mr. Cannon stated that Mr. Anthony Fontana addressed the Land Use representatives and asked them if a Letter of Interpretation (L.O.I.) would be required with our permit application? The Land Use representatives answered that given what they

observed on site today that they did not feel that an L.O.I. is necessary and that they would be looking into some of our historical information from previous expansions to verify this.

Mr. Cannon stated that the DEP considered this a pre-application meeting between them and the PCFA.

Mr. Williams added that when he and Mr. Cannon took the DEP representatives into the field that the representatives noted that they had been under the impression that we would be excavating virgin ground and not manmade piles of dirt that were already being used. Mr. Cannon stated that the DEP noted that had they known that the areas in question were non-virgin grounds that an L.O.I. would not have come into play.

Mr. Cannon stated that he and Mr. Williams came up with new verbiage for page 11 section 3.2.2 regarding Wetlands. Mr. Williams read the new wording as follows “On March 9, 2017 a Landfill Expansion pre-application site visit was conducted with representatives of both the Pollution Control Financing Authority of Warren County and the New Jersey Department of Environmental Protection, solid Waste and Division of Land Use. As part of the group discussion it was determined at this time, a Letter of Interpretation (L.O.I.) regarding wetlands is not required to be submitted with the application.”

Mr. Pryor stated that for our own protection we could always do a Presence Absence Determination which is the lowest level of an L.O.I. He noted that this would confirm whether or not there were Wetlands and that once the determination is made it can be used as proof of the lack of Wetlands.

Mr. Cannon stated that the board paid for a Phase 1A Cultural Study that they were told by Cornerstone was necessary and that in hindsight this study was not actually necessary. He noted that he does not even want the study in the EHIS because it counters everything that the PCFA is trying to do.

Mr. Cannon stated that it is his opinion that the entire Phase Phase 1A Cultural Resources Investigation put together by Mr. Robert Jacoby should not be included in the submission and should be struck going forward. Mr. Cannon noted that per the Phase 1A, as written, we would be required to do a Cultural Phase 1B and a Wetlands Permit, which we are not required to do.

Mr. Pryor noted that he believes the GP-6 is for the maintenance work on the basin. Mr. Williams stated that the GP-1 is for the work on the basin. Mr. Pryor asked what the GP-6 is then? Mr. Williams answered that he does not have that answer.

Mr. Cannon responded by reading a statement from the EHIS as follows: “The project will also require a NJDEP-issued Freshwater Wetlands General Permit (GP-6). The GP-6 Permit will involve New Jersey Historic Preservation Office (NJHPO) review to identify any potentially adverse impacts by Project activities to known or potential cultural resources under the authority granted to it by Section 106 of the National Historic Preservation Act of 1966 (NHPA), as amended.”

Mr. Cannon stated that the introduction in Appendix B sets us up for needing a Phase 1B.

Mr. Mach stated that he has seen this report before and that he agrees that it is counterproductive but that this is still not the first time the board is seeing this report.

Mr. Pryor recommended removing the Phase 1A from the application and Mr. Cannon agreed. Mr. Mach stated that he agrees to the removal of the Cultural Resources Investigation from the application as long as it does not affect anything else that is needed in the report.

Mr. Cannon summarized portions of the DEP field visit again. Mr. Williams noted that the only thing the representatives from Land Use stated was that they may need to do another field visit once they receive and begin reviewing the application.

Mr. Allen asked if anyone made Cornerstone aware of the pre-application visit with the DEP and if they were made aware of the findings from the visit? Mr. Cannon answered no, but that they are going to let them know.

Mr. Cannon referred to a letter in the back of the EHIS report dated November 24, 2015. He read the following: "Based on the 1896 Environmental and Health Impact Statement, no other historic sites were reported and, due to the previous ground disturbance within the project area, no further action related to historical sites or archaeological resources was recommended." He then read the following: "Please be aware, the HPO reviews projects for their effects on historic and archaeological resources when federal funding, licensing, or permitting is involved." Mr. Cannon also read the following: "If the above referenced project requires review under any of the above referenced regulatory reviews, the HPO then would likely recommend that a Phase Phase 1A archaeological survey meeting current survey and reporting rules be conducted to assess the area's sensitivity for intact archaeological resources within the project's area of potential effects." Mr. Cannon stated that we do not meet any criteria in the second sentence that he read and that the Historic Preservation Office has already essentially made a ruling based on the 1986 study that we would not need another Phase 1A now.

Mr. Pryor stated that there is a subsequent letter from February 2016 that basically says the same thing.

Mr. Cannon referred to page 11 of the EHIS report provided by Cornerstone and cited section 3.2.1 regarding Vegetation and noted that this section of the EHIS report states that the areas in question have been previously disturbed. He then read the following: "Because the proposed Landfill Expansion involves construction on active cells and within limits of the established Facility properties, the modifications will have no adverse impacts on the existing vegetation either at the site or within the existing, previously disturbed areas of the Warren County District Landfill and therefore the proposed Landfill Expansion will have no adverse effect on vegetation at the Warren County district Landfill."

Mr. Cannon then referred to section 3.2.3 regarding Wildlife Resources and pointed out that Cornerstone specifically used the words "borrow areas".

Mr. Cannon stated that Cornerstone contradicts themselves in section 3.2.2 regarding Wetlands due to what is written in the sections he just referenced.

Mr. Cannon expressed that he wants the new verbiage regarding the Wetlands clearly communicated to Ms. Prentiss Shaw and wants to receive confirmation from her regarding that Cornerstone has changed the verbiage in section 3.2.2 (Wetlands) that the board wants to use in the application.

Mr. Allen asked if the DEP sent us anything in writing after their on-site visit? Mr. Cannon answered, no, that the information he shared today was all verbally communicated during the visit.

Mr. Williams asked if the board wanted to keep everything up to Appendix B in the EHIS report except for the Wetlands portion which he will provide the proper wording for? He asked if we were going to ask Cornerstone to remove the entire Appendix B? The board agreed but noted that they would like to leave the letters from the DEP in the report. Mr. Cannon stated that he would like to see a copy of the EHIS report with the corrections to review before it is submitted.

Mr. Williams asked if there were any questions regarding the rest of the application documents that were provided to the board? The board responded that they had no other questions.

Mr. Cannon cited page 12 of the EHIS report provided by Cornerstone and stated that section 3.3 regarding Cultural Resources should be removed entirely except for the last sentence in section 3.3 which he read as follows: "The Landfill will maintain a buffer around the Titman Shaft located near the proposed expansion during construction." He reiterated that we have a letter from the Historic Resources Society supporting that this would be a solution to any cultural issues.

Mr. Williams suggested adding the following: "See attached NJDEP letters as a reference". Mr. Cannon and the board agreed to this.

Mr. Mach stated that he has an issue with the clarity of the pictures on pages 9-12 in the Visual Impact Assessment portion of the EHIS report. Mr. Allen stated that he thinks the pictures are useless the way they look but that possibly it was just the contrast of the copying machine. Mr. Cannon agreed that the pictures are not clear and asked Mr. Williams to have Cornerstone correct the pictures as well. Mr. Williams stated that he has it on his list of things to address with Cornerstone.

Mr. Cannon stated that the board had all received the recycling report from the solid waste coordinator. He stated the following: "the State of NJ DEP now requests that counties which have not obtained a Municipal Solid Waste recycling rate of greater than 50% propose projects that will increase their recycling rate to 50% and beyond". He also stated following: "the NJ DEP also stated that counties that have not fulfilled their District Solid Waste Management planning responsibilities or counties that are delinquent in the submission progress and financial reports and financial reports for prior year entitlements will not receive funding until plans are approved."

Mr. Cannon stated the following for the record: "Warren County has the worst recycling numbers". He noted that his reason for saying this is because Salem County which has a lower amount of recycling reported than Warren County only has a population of 66,000 with 55,000 tons of recycling brought in and Warren County has a population of 108,000 with 72,500 tons of recycling brought in.

GENERAL COUNSEL'S REPORT

Nothing to add. All items already addressed.

OTHER BUSINESS

CLOSING PUBLIC COMMENT

None

PRESS COMMENTS & QUESTIONS

None

EXECUTIVE SESSION

Executive Session was not necessary.

ADJOURNMENT

With no other business to discuss, *Mr. Allen* motioned to Adjourn, seconded by *Mr. Pryor*, at 11:25 am.

ROLL CALL:	Mr. Allen	-	Yes
	Mr. Pasquini	-	Yes
	Mr. Pryor	-	Yes
	Mr. Mach	-	Yes
	Mr. Cannon	-	Yes

Respectfully submitted by:
Crystal Gild, Recording Secretary

Approved: 04/24/2017