

MID-CONNECTICUT PROJECT MUNICIPAL ADVISORY COUNCIL

The Mid-Connecticut Project Municipal Advisory Council (MAC) held its second meeting on Wednesday, January 14, 2009, at the Trash Museum in Hartford, Connecticut.

PARTICIPATING MUNICIPALITIES AND THEIR REPRESENTATIVES:

Avon	Blythe	Robinson	Assistant Town Manager
Canton	Richard	Barlow	First Selectman
Coventry	John	Elsesser	Town Manager
East Granby	James	Hayden	First Selectman
Ellington	Michael	Stupinski	First Selectman
Enfield	Matt	Coppler	Town Manager
Glastonbury	Michael	Bisi	Superintendent of Sanitation
Harwinton	Frank	Chiaramonte	First Selectman
Manchester	Julian	Freund	Budget Officer
Naugatuck	Mike	Bronko	Mayor
Naugatuck	Sheila	Baumner	Recycling Coordinator
Old Lyme	Timothy	Griswold	First Selectman
Wethersfield	Bonnie	Therrien	Town Manager
Council of Governments Central Naugatuck Valley	Jeff	Cormier	COGCNV Staff

CRRA MANAGEMENT ATTENDEES:

Tom Kirk, President
Jim Bolduc, Chief Financial Officer
Mike Bzdyra, Government Relations Liaison
Jeff Duvall, Manager of Budgets and Forecasting
Peter Egan, Environmental Affairs & Development Director
Mike Tracey, Director of Operations
Paul Nonnenmacher, Director of Public Affairs
Lisa Bremmer, Executive Assistant to the President

1. CALL TO ORDER

Municipal Advisory Committee Chairman Timothy Griswold called the meeting to order at 9:04 a.m.

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT

Members of the public wishing to address the Municipal Advisory Committee may speak for up to three minutes.

Richard Barlow, First Selectman, Town of Canton requested that speakers announce their names and the towns they represent prior to making comments to ensure accuracy in the transcription of minutes.

4. APPROVAL OF MINUTES OF OCTOBER 15, 2008

The minutes of the October 15, 2008 meeting were approved as written.

5. MID-CONNECTICUT PROJECT UPDATE

Tom Kirk, CRRA President, narrated a PowerPoint presentation and discussed operational performance, legislative matters, legal issues, financial and variance reporting:

A. OPERATIONAL PERFORMANCE

i. **MSW DELIVERIES AND TRENDS (TONNAGE) – President Kirk** said there has been a fairly substantial drop in tonnage delivered. There are two major reasons for this: first, the volume of garbage has dropped with the drop in economic activity and, second, diversion by non-municipal haulers. This is an important consideration by the Committee because when tons aren't delivered to CRRA and do not pay the Mid-Connecticut Project tip fee because they go someplace cheaper, the Project is deprived of revenue which impacts directly on tip fees. We are expecting an approximate \$11 million deficit in tip fees due to this tonnage diversion. The Finance & Variance Report included with the meeting materials clearly details where and how this deficit affects our operations.

The waste leaking out of the system can be addressed with CRRA enforcement. Our enforcement officers spend countless hours following route trucks and redirecting them to where they should be. However, the economic motivation is very substantial. Private operators of trash-to-energy plants typically have “fire sales”, as they are called, this time of year. The fire sales cause the spot tipping fee to drop from typical rates in the \$80-\$90 per-ton range to as low as \$30 per ton. With that kind of financial motivation, haulers can drive their garbage a fairly long distance and save money. That is what CRRA sees happening today. We encourage you to work with CRRA and your public works directors to try to ensure your town's tons go to CRRA properly and give CRRA a call if you see tonnage disappearing. The monthly deliveries chart in the meeting materials show some towns have double-digit variances compared to last year; some with reductions as high as 30 %.

Bonnie Therrien, Town Manager, Town of Wethersfield, asked what range should be expected in a down economy.

President Kirk said the statewide range is in the 7% range, which he believes is a good indication of the economic impact. The remaining percentage represents what is probably leaking out of the system, contrary to our contracts. Fewer dollars received due to fewer tons delivered means higher tip fees. We must do everything we can to keep the plant filled.

ii. **RECYCLING AND PLANT OPERATIONS – President Kirk** said there is both good and bad news in relation to recycling. Recycling tonnage is up 3% year-to-date, which is very good, particularly given the economic climate we are in. Some standouts: Hartford is up 41%, a remarkable improvement due in large part to the pilot program CRRA has with the City of Hartford involving 4,400 homes running a single-stream system. Glastonbury is up 32% because single-stream has now been implemented by the private haulers there. Portland is up 77%. Of course there is some disappointing news as well. We believe the private haulers have found a way to move town's paper to another buyer outside of the contract.

Single-stream does have a substantial impact. Single-stream is easier and more convenient because it increases the participation rate and menu of recyclables. This decreases the amount of tons of garbage so, even if towns do not get a bonus for recycling, they are still saving \$72 a ton, or whatever the tipping fee happens to be, for every ton they recycle.

In the current commodities market, steel cans are the worst performer and down from a high of \$420 per ton just six months ago to \$5 now. Mixed paper and old newspaper have dropped from \$85-\$90 per ton to \$0-\$5 per ton. Fortunately, CRRA's Mid-Connecticut Project has a guaranteed minimum price for its fiber but the revenue sharing (the premium over that minimum price) is what CRRA used to pay towns a \$10-per-ton rebate for last fiscal year. It is fairly certain that, absent a substantial rally in the commodities markets for recyclables, CRRA will not be able to offer rebates next year, and towns should keep in mind as they put their budgets together. CRRA stopped accepting bulky waste at the Hartford landfill. It has installed a new portable shredder at the Waste Processing Facility, and can now shred and turn into fuel for the plant. If you have been using CRRA to process your bulky waste, you can continue to do this in the future. The tip fee for bulky waste is \$85 per ton. If there is a cheaper alternative locally, towns should obviously consider those options.

First Selectman Barlow requested clarification of the terms bulky waste in relation to C&D (construction and demolition material) and oversized MSW (municipal solid waste) and bulky.

President Kirk said C&D is often mixed with oversized MSW, but CRRA does not want the C&D (non-burnable, stone, concrete, wallboard, land clearing debris, etc.). If C&D is mixed in with oversized MSW and bulky at the town stations, it would likely be better to use one of the private recycling facilities, since they have less trouble dealing with the processing of these materials.

iii. **HARTFORD LANDFILL – President Kirk** said the Hartford landfill closed on December 31, 2008. There were a couple of different television stations filming the dumping of the last truckload at the Hartford landfill. This was a very significant event in CRRA's history and the City of Hartford's history. The landfill opened in 1940 as a city facility and had a very checkered history within the City of Hartford. It has been leased by the Mid-Connecticut Project since 1982 and was very valuable to the Project. The financial advantage of having that disposal area, with essentially a zero tipping fee, available to the Project and its towns for all these years has been huge. The Project and its towns did not really appreciate the benefit of the landfill for many years but will now because of how much more it will cost to send ash and non-processible waste material to privately-owned landfills. Now that the landfill has closed, the project is responsible for \$44 million in closure and post-closure costs. The good news is the Project has accrued virtually all of that money over the past five or six years. When CRRA received settlement from Enron litigation, those settlements were used to build a reserve of \$44 million needed to pay the closure costs.

CRRA still is awaiting \$10 million in closure funds promised by the Legislature through the State Bond Commission. The state has paid for the closure of 24 different mostly municipal landfills across the state. Therefore fairness dictates that the state should contribute \$10-13 million to close the landfill, which is a liability of 70 towns across the state.

The cost to transport and dispose the ash and non-disposable waste to private landfills is \$17 million per year or \$20 per ton of garbage. That number is based on the bid CRRA accepted. This is a tremendous expense which CRRA hopes to mitigate substantially with the development and construction of the Franklin ash landfill. When the Franklin ash landfill is developed and constructed, Project towns can save at least \$8 per ton.

B. LEGISLATIVE UPDATE –

i. FRANKLIN ASH LANDFILL LEGISLATION – President Kirk said there is a bill raised already, Senate Bill 3 (SB3), which says CRRA shall not build an ash landfill in Franklin. If the bill passes, CRRA will not be able to build an ash landfill. CRRA exhaustively studied the entire state of Connecticut (77 different sites) and determined the Franklin site is best according to environmental, ecological, hydro-geological and any other technical standards. CRRA would have preferred a site much closer to the plant, but based on technical criteria the Franklin site is far and away the best site in Connecticut. Sites which may have been previously identified are no longer available because they now have housing developments on them. If CRRA is told it can't build the ash landfill in Franklin, that would likely mean CRRA can't build it in Connecticut.

ii. CERTIFICATION OF NEED – President Kirk said CRRA is asking the Legislature to consider clarifying of the Certification of Need language in the statutes. The Department of Environmental Protection (DEP) has the responsibility of certifying that there is a genuine need for this capacity. CRRA believes there is a need. However, because the Putnam facility area has less than 10 years of permitted capacity left, an argument could possibly be made that there is access to that facility (which is true at a cost of \$80 per ton) but need should include more than just capacity because at some price there is always capacity. The Certification of Need should also consider the cost and benefits to the towns, so that is why CRRA is asking the Legislature to amend the law.

iii. ACCESS FOR INSPECTION – President Kirk said the leakage of trash from the Project is a very serious problem, particularly at times when the Project needs the revenue most. CRRA enforcement officers do not have access to privately owned licensed facilities and, as the state agency whose mission it is to protect the interests of the towns, the owners of private facilities where CRRA strongly suspects this material is going should not be able to keep CRRA inspectors out. So CRRA is asking for a statute that will allow CRRA enforcement personnel to enter any DEP-licensed facility to inspect and help ensure the towns' trash goes where it is supposed to and that the towns pay the rate they contracted to pay.

iv. HEADCOUNT RESTRICTION – President Kirk said present law restricts CRRA employees to 70, which is sufficient to perform the functions CRRA has historically performed. However, in 2012, the Mid-Connecticut Project contracts with its operators will expire, providing an opportunity to consider other creative ways of staffing the facility. This includes the possibility of using public employees, CRRA employees, to actually operate the facilities instead of just administering the contract. It may or may not be the most cost-effective way, but that option should be left on the table. In order to keep that option, CRRA will need a relaxation of the headcount restriction.

For the specific purpose of operating a facility such as the Mid-Connecticut Project trash-to-energy plant CRRA would be allowed to exceed the 70-person headcount. There are 100-plus people running that facility right now, so that obviously exceeds CRRA's 70-person limit.

CRRA hopes that the towns and their legislators can help with these issues, as each and every one means dollars to the towns in terms of lower tip fees.

C. LEGAL UPDATE:

i. *NEW HARTFORD v. CRRA* – President Kirk said CRRA is awaiting the Supreme Court decision on the 2007 ruling. If the trial court's ruling is upheld, there is essentially no change. We would be at status quo and the tip fee would not be impacted in any way. If CRRA's appeal is successful and the ruling is overturned, immediately CRRA would receive \$8.9 million in escrowed attorney fees that could have an immediate impact on tip fees. However, the Board's decision on what to do if CRRA wins the appeal will likely depend very significantly on other litigation, particularly the MDC and ONE/CHANE litigation. A ruling on a subsequent case involving the FY 2008 Mid-Connecticut Project budget is continuing. Several members of CRRA's management team spend hours every week on this lawsuit the trial lawyers are trying to change the fiscal-year 2009 budgeted tip fee. There is no indication as to when this is going to end. CRRA anticipates that the trial lawyers will continue to challenge every budget. This represents a significant cost to the towns. CRRA expects to spend hundreds of thousands of dollars defending against this. CRRA will just continue to pay but wishes this could get resolved and encourages the towns to pay attention.

ii. *MDC AND ONE/CHANE DISPUTES* – President Kirk: These issues were discussed at the last meeting. There has been no further development in the lawsuit by ONE/CHANE. It is about a \$10 million dollar demand on CRRA having to do with an attempt to expand the Hartford landfill some 10-12 years ago. CRRA is optimistic regarding that lawsuit.

The MDC dispute is very significant and there have been some developments. At the last MAC meeting, CRRA informed you that the MDC had initiated a claim for about \$12.2 million in post-contract-expiration costs. Essentially the claim is that when CRRA's contract with MDC expires in December 2011, the year prior to the end of the Project MDC is entitled to collect from CRRA a long list of MDC costs. CRRA disagrees. CRRA believes it does not owe any of those costs. CRRA is negotiating with MDC and CRRA's position was very clear: when the contract expires, just as when any contract expires, the buyer has no liability. Similar to when you hire a contractor to deliver fuel oil to the city hall, when you change contractors you don't have to pay the unemployment insurance for the driver that was laid off.

CRRA believes when its contract expires with MDC, CRRA's liability expires with it. Had CRRA terminated MDC mid-contract, CRRA would then be liable for these costs. But CRRA plans to let the contract expire and then market-test through a bid for the best value operator starting after 2011. MDC recently claimed the figure is \$17 million, up from \$12 million, and that has grown very, very substantially in the last couple of weeks to a point that is difficult to discuss. Nonetheless, CRRA hopes to be able to resolve the matter. If not, it will go to arbitration. The arbitrator will answer the narrow question of who is liable for these costs, to the extent they even exist. If it the liability is MDC's, there will be no impact on tip fees.

D. FINANCIAL AND VARIANCE REPORT –

i. Results of MAC meeting on tip fee adjustment – President Kirk: A chart in the meeting materials reflects non-recurring revenue and expense, factors affecting the tip fee. There are very significant operating cost factors in that affect the bulk of the tip fee, including payroll, costs of hauling ash and non-burnables out-of-state. The biggest challenge in the costs of ash. If CRRA can build the ash landfill in Franklin it will be a significant advantage to the Project, saving \$8 per ton. However, there are other potential impacts that are non-recurring. The first is settlements: CRRA estimates it can collect from \$0 to \$13 million from settlement negotiations with the remaining Enron conspirators. Unfortunately, most of the Enron conspirators are banks that are in difficult straits at the moment. Secondly, the State Bond Commission is supposed to provide another \$10 million for the Hartford landfill closure. While it appears unlikely we will collect the funds in the next year or two CRRA does believe the State Bond Commission will make good on the Legislature's commitment. Finally, on the negative side, there is the \$10 million dollar One/Chane litigation. In the unlikely event ONE/CHANE is successful CRRA would have to pay \$10 million, which would impact tipping fees accordingly.

Mr. Barlow asked who ONE/CHANE is.

President Kirk said ONE/CHANE is a North Hartford community organization presently in bankruptcy. Its creditors have authority from the bankruptcy court to pursue this claim which is considered an asset by the bankruptcy court. CRRA doesn't think there is much to it, but the plaintiffs' lawyers are handling it on a contingency basis, so CRRA must deal with it. ONE/CHANE itself is no longer an active organization.

Despite all this, CRRA expects to be able to operate the plant after 2012 at a below-market tip fee for the benefit of the towns.

E. FUTURE OF MUNICIPAL SERVICE AGREEMENTS (MSAs)

President Kirk said that when the Mid-Connecticut Project expires in 2012 CRRA will either have to maintain at or below-market rates, or else the towns will find alternatives. The two issues here are containing contractors' costs and the Franklin ash landfill, on both of which CRRA needs favorable outcomes. If CRRA is not competitive, the Mid-Connecticut Project facilities could be sold to and operated by the private sector. The towns can and should weigh all of their options. The Capitol Region Council of Governments (CRCOG) has completed a brief study, and other options should be considered. CRRA will provide additional information and discuss post-Project issues at its Annual Meeting on Wednesday, March 4, 9 a.m., at the Hartford Marriott-Rocky Hill. Management will provide a clearer picture about CRRA's future costs and opportunities.

Ms. Therrien asked about the timeline on the Supreme Court decision and the MDC arbitration.

President Kirk said that the Supreme Court does not follow a schedule but typically issues a ruling on average of six months after a hearing, which would mean its ruling could come by late spring. CRRA asked, but got no response, for a ruling before setting the FY 2010 tip fee.

CRRA requested arbitration regarding post project liabilities with MDC about one month ago because this issue is so critical to CRRA's budget-setting process. CRRA wanted an answer before setting the FY 2010 tip fee because if it is necessary to accrue a large amount of money, there will be three budgets in which to do it before the Project expires. The eight MDC towns, seven of which are significant customers of CRRA, encouraged CRRA to negotiate to a settlement. The CRRA Board agreed to do that through the end of this month. Accordingly, CRRA will not have an answer for this budget year.

John Elsesser, Town Manager, Town of Coventry, asked if closure and post-closure costs are being included in the Franklin ash landfill budget models for operation, since there is a potential savings of \$8 per ton.

President Kirk confirmed CRRA is accruing to meet closure and post-closure costs, which is routine accounting now but was not the case long ago when the landfill began. He said closure expenses should be accrued for the Franklin ash landfill, if it is approved, and there will be no surprises 20 or 30 years from now when it is time to close the landfill.

Mike Bisi, Superintendent of Sanitation, Town of Glastonbury, asked about the electronics recycling legislation.

Mike Bzdyra, Government Relations Liaison, CRRA, said DEP is in its final phases of developing a draft regulation to be circulated in December for comment. Nothing has been distributed yet. In accordance with the modified electronics waste law passed last year, many of the deadlines in the law were extended by six months, including the deadline for when towns would be required to provide their residents with the disposal of their residential electronics waste. At this point, it looks like the legislation is going to have a difficult time moving forward. Therefore, until the Legislature is ready to move forward CRRA will continue to meet its customers' needs by providing electronics waste recycling events coordinated with various towns throughout the year.

Chairman Griswold suggested a full-court press be organized with regard to SB3 (the bill prohibiting development of an ash landfill in Franklin, CT).

President Kirk encouraged such efforts and implored the Connecticut Conference of Municipalities, as well as other organizations, to take up CRRA's agenda. There is not an organized effort as yet.

Mr. Bzdyra added that detailed fact sheets have been drafted and will be e-mailed to various legislators to provide additional information relating to this bill.

President Kirk encouraged town officials to come forward to support CRRA's position on this legislation.

Mr. Bzdyra confirmed he has articulated clearly the costs associated with the landfill, so there can be a well informed decision by the legislature.

Paul Nonnenmacher, Director of Public Affairs, reminded the group the SB3 information sheets will be available at the upcoming Connecticut Council of Small Towns (COST) Annual Meeting, since many MAC members are also members of COST.

President Kirk added that the ash landfill is absolutely essential to continuing the State's public policy commitment to trash-to-energy. There are two byproducts: electricity and ash. The state must do something with the ash. The most responsible and cost-effective way of handling ash is to have an in-state, publicly owned ash landfill, so CRRA will be talking more about that as the legislative session goes on.

President Kirk noted recycling data had been inadvertently omitted from the materials package e-mailed out, so copies are available as handouts for those interested or e-mailed upon request.

6. ADMINISTRATION OF MUNICIPAL ADVISORY COMMITTEE

A. NOMINATIONS FOR MUNICIPAL ADVISORY COMMITTEE CHAIRMAN – Chairman Griswold invited nominations for Chairman of the Municipal Advisory Committee and opened the floor for comment.

Mr. Elsesser said it is premature to elect a Chairman prior to adopting the by-laws.

President Kirk said the proposed by-laws, which are very raw and have been provided as a starting point by management, provide for the MAC Chairman to be a Mid-Connecticut ad-hoc appointee to the CRRA Board. If a Chairman is chosen in a different way, the by-laws would have to be changed accordingly.

Mr. Elsesser said the by-laws should be adopted before the Chairman is chosen and further suggested Chairman Griswold continue as an ad-hoc Chairman until the by-laws have been adopted.

Chairman Griswold asked whether the members have had the opportunity to review the by-laws and whether anyone had comments to present at this time. ‘

President Kirk said there has not been sufficient time for member review of the by-laws and attendance at today’s meeting does not qualify as a quorum as required by the proposed by-laws, in order to make any changes to the by-laws.

Chairman Griswold suggested that action to approve the by-laws be moved to the next meeting and move forward with other actions items at that time. All members concurred.

Mr. Elsesser pointed out that the terms “Chief Executive Officer” and “Chief Elected Official” used within the by-laws should be clarified.

President Kirk requested all typographical or substantive errors or corrections be sent directly to Mr. Nonnenmacher via e-mail at pnonnenmacher@crra.org.

i. **Election at next meeting – Action on this item was postponed until by-laws are adopted.**

B. INTRODUCTION OF PROPOSED BY-LAWS

i. **Selection of Sub-committee on By-laws – Action on this item was postponed until by-laws are finalized.**

President Kirk suggested, in the essence of time as well as to encourage participation, that the MAC members allow voting on by-laws by proxy in order to ensure a quorum.

Mr. Barlow said he agrees that a proxy system of voting would be effective, given the difficulty in obtaining a quorum due to anticipated lack of attendance at meetings.

Mr. Nonnenmacher said he would append to the by-laws a sample proxy letter for committee members to review and approve.

C. DISCUSSION AND POSSIBLE ACTION ON FUTURE MEETING DATES –

President Kirk said Municipal Advisory Committee meetings will be scheduled on a quarterly basis beginning at 9 a.m. A list of meeting dates for the year 2009 will be provided in advance of the next scheduled meeting, which will be scheduled in April.

7. COMMENTS AND QUESTIONS FROM MUNICIPAL ADVISORY COMMITTEE MEMBERS

President Kirk said the CRRA tip fee is now \$72 per ton with a \$10 discount for the final 6 months of the fiscal year. The CRRA Board considered the members' insights and input from the October meeting and voted to use \$4 million of CRRA surplus discussed at the October meeting to lower the tip fee by \$10 per ton for the last six months of this fiscal year. CRRA expects it will also have a beneficial effect on deliveries, as haulers who may have been moving their tons out may now be motivated to move them back. CRRA will update the MAC members on tonnage trends at the next MAC meeting

Chairman Griswold also confirmed that member towns will receive a new tip fee notification letter 120 days prior the start of the new fiscal year, which is February 28, 2009. The new tip fee, as always, will be set on a net-cost-of-operation basis.

Mr. Elsesser said for all those interested in weighing trash at the curb, a vendor will discuss this technology at the Coventry Town Hall. The vendor is Otto Environmental, who the Coventry public works director identified while looking for options to the pay-as-you-throw option, provides two tipper barrels – one for recycling and one for trash. Mr. Elsesser will provide information which Mr. Nonnenmacher can then e-mail to MAC members for their review.

President Kirk said the pay-as-you-throw technology could revolutionize the business because it is very effective. Coventry's pay-as-you-throw program made Coventry one of the best recyclers in the Project, since if you don't pay to recycle and you do pay for your garbage. The weigh-at-the-curb/pay-as-you-throw system encourages people to recycle more while those who create more garbage will pay more. The empty-nesters that are very good recyclers will pay much less. Towns should consider pay-as-you-throw, but beware that it can be extraordinarily painful and difficult, as Mr. Elsesser can attest.

Chairman Griswold asked if there is any information on single-stream recycling that communities could receive to inform folks about capital and operating costs.

President Kirk stated Tom Gaffey, CRRA's Director of Recycling, is the contact for this sort of information and will likely be planning a more detailed presentation on single-stream recycling.

Mr. Elsesser said it would be interesting to know whether going to larger tipper barrels for combined recyclables would make bi-weekly recyclable collection feasible. Doing so would save the fuel costs of a weekly collection.

President Kirk responded that Mr. Gaffey has the data on the efficiencies of weekly versus bi-weekly collection. Please don't hesitate to call.

Sheila Baummer, Recycling Coordinator, Borough of Naugatuck, discussed the success Naugatuck has experienced by offering three different size recyclable containers and/or barrels depending on the needs of the individual households.

8. ADJOURNMENT

Chairman Griswold requested motion to adjourn. This motion was seconded by Mike Bronko. The meeting was adjourned at 10:08 a.m.

Respectfully Submitted,



Lisa M. Bremmer
CRRA Executive Assistant