

Minutes of
THE BENTON COUNTY SOLID WASTE DISTRICT BOARD
REGULAR MEETING (conducted virtually via Zoom)
January 28, 2021

CALL TO ORDER: The Regular Meeting of the Solid Waste District Board was called to order by Board Chairman Jackie Crabtree at the District Business Office at 1:30 p.m.

ROLL CALL: District Program Manager Jayme Land made a verbal roll call.

Board members present:

Judge Barry Moehring, Benton County (joined meeting late)
Mr. Gary Wilson, City of Bentonville
Mayor Bill Edwards, City of Centerton
Mayor Kevin Johnston, City of Gentry
Mayor Chris Moore, City of Lowell
Mayor Jackie Crabtree, City of Pea Ridge
Mr. Jerrold Haley, City of Rogers
Mr. Steve Gorszcyk, City of Siloam Springs

Members Absent:

Mayor Peter Christie, City of Bella Vista
Mayor Kurt Maddox, City of Gravette
Mayor Tracy Englebrecht, City of Little Flock

A quorum of members was present.

Staff Present: Director Wendy Bland; Program Manager Jayme Land

Guests Present: Teresa Sidwell – Benton County Environmental Services; Everett Hatcher – DEQ TAP; Wayne Low – City of Centerton Councilmember

APPROVAL OF AGENDA:

Chairman Crabtree announced that all votes would be considered Aye automatically unless a member provides a voiced Nay.

Motion was made to approve the agenda as amended to add New Business items 9.1.b Proposed Personnel Changes and 9.5 BCO 03-17 Grant Request to Sell, Trade or Transfer.

Motion: Mr. Wilson

Second: Mayor Moore

Discussion: None

Roll Call Vote Aye: Unanimous

Roll Call Vote Nay: None

Motion carried.

APPROVAL OF MINUTES:

Motion was made to approve the minutes of the October 22, 2020 Regular Meetings as presented.

Motion: Mayor Moore

Second: Mayor Edwards

Mayor Moore amended motion to approve the minutes of both the October 22, 2020 and November 30, 2020 Regular Meetings as presented. Mayor Edwards seconded amendment.

Discussion: None

Roll Call Vote Aye: Unanimous

Roll Call Vote Nay: None

Motion carried.

STAFF REPORTS

Financial Report

Director Bland noted that the financial statements had been provided to the Board in advance of the meeting including the Profit and Loss Statements and Balance Sheets for all funds.

PUBLIC FORUM:

No comments were received.

COMMITTEE REPORTS:

Nominating Committee

Mayor Edwards presented a report from the Nominating Committee meeting held prior to the Board meeting. The Nominating Committee made the following recommendations for 2021 Board Officers: Mayor Jackie Crabtree as Chairperson; Mayor Chris Moore as Vice-Chairperson; and Mr. Jerrold Haley as Secretary.

Motion was made to accept the committee's recommendations and elect Mayor Jackie Crabtree as Chairperson; Mayor Chris Moore as Vice-Chairperson; and Mr. Jerrold Haley as Secretary as the Board officers for 2021.

Motion: Mr. Wilson

Second: Mayor Edwards

Discussion: None.

Roll Call Vote Aye: Unanimous

Roll Call Vote Nay: None

Motion carried.

OLD BUSINESS:

Update on status of the Eco Vista Lawsuit

Director Bland informed the Board that a court hearing was held on December 7, 2021 regarding the release of the uncontested half of the fees to the Benton County District. The judge issued an order that the uncontested fees collected by the court to date would be released to Benton County District. Fees were received by the District for half of the total fees generated in the 2nd and 3rd quarters of 2020, amounting to \$98,041.00. A new hearing will be required each quarter to secure the release of half of the fees generated during that period until the case is heard by the court.

2019 Fiscal Audit Status

Director Bland informed the Board that the draft report of the 2019 Fiscal Audit was received a few days prior to the meeting and is being reviewed by staff. Staff was concerned that the auditors did not remove some prior year auditor general journal entries that were no longer valid. Staff

Director Bland asked for Board consensus on auditing firm selection for the 2020 Fiscal Audit. She stated that she felt it prudent to again use Przybysz & Associates due to the additional expense of starting with a new firm. She stated that the quality of work performed appeared to be good and the only challenge had been the specific liaison assigned to the District's audit seemed to have provided conflicting information on occasion as had been provided by the head CPA for their firm. The main accountant and 3rd party auditor were both excellent in communicating and educating District staff. Chairman Crabtree suggested that staff should place specific deadlines into any agreement for 2020 audit.

Status of Service Agreement

Director Bland announced that most of the cities as well as the County have signed onto the Service Agreement whereby the funding for the operation of the two Special Waste Drop-off Program satellite locations would be provided by the cities and County for 2021. Only the cities of Gravette, Lowell and Springdale have not agreed. She reminded the Board that Springdale had informed the District in advance that they would not participate. Mayor Moore of the City of Lowell stated that the agreement was under review by the council and would take an amendment to the budget in order for the city to participate. The City of Gravette has not provided a response as to their interest in participating. Director Bland stated that the special funding pledged

would leave a deficit for program expenses amounting to \$20,033.00 which could be covered by the sale of metals collected by the program.

NEW BUSINESS:

Motion was made to read all resolutions by title only.

Motion: Mayor Edwards

Second: Mr. Wilson

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Resolution 2021-01 - 2020 General Fund Final Amendment

Director Bland reviewed the line item balances for the year and noted that, between generation of additional revenue and avoided expenditures, the General Fund would generate \$74,103.98 to carry forward into 2021.

Motion was made to approve Resolution 2021-01 – 2020 General Fund Budget Final Amendment as presented.

Motion: Mayor Edwards

Second: Mayor Moore

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Proposed Personnel Changes

Director Bland presented a request to transition the Program Manager position to an Assistant Director position. She noted that the Assistant Director position had been left vacant and unfunded for the last four years. She explained that the need for an Assistant Director would be to improve the personnel leadership structure by providing an intermediary supervisory position rather than all staff reporting directly to the Director position. It would also allow the District to better utilize Ms. Land's skills without incurring excess overtime. Director Bland asked that the Board consider utilizing some of the 2020 carry forward funds to fund the additional 2021 expense.

Judge Moehring stated that he felt that much of the 2020 funds carried forward were a result of the supplemental funding contributed by the County, the City of Rogers and the City of Siloam Springs in 2020. Director Bland explained that the carry-forward funds were a result of cutting expenses not related to the supplemental funding. The additional revenue paid by the County and the two cities amounted to \$41,142.46. He stated that he felt that the deficit that was originally projected in 2020 and resulted in supplemental funding was in actuality unnecessary at the end of the year and those funds should be returned to the three entities that had contributed.

Director Bland stated that the supplemental funding to continue the discretionary satellite program was based upon the data available to the staff and the board at the time that the 2020 budget amendment was made. The release of the lawsuit funds was unexpected and did not occur until December. She agreed that the Board could decide at this time to refund the supplemental contributions. Mr. Gorszcyk stated that he felt it would show good faith for the District to refund the city since the additional funding was not needed. He added that the City of Siloam Springs would also like to have the potential extra contributions for the 2021 Special Waste Drop-off program to be reviewed each quarter.

Director Bland stated that even receiving half of the waste fees in 2021 would not cover the expenses of the Special Waste Drop-off Program. And that the agreement includes language that the board would review the funding and proportionally decrease the 2021 contributions should the 2021 lawsuit funds be released.

She also reminded the Board that the District is not mandated to provide a special waste program and she does not want to jeopardize the District's ability to provide the mandated programs by utilizing funds to support a discretionary program.

Judge Moehring stated that he would like to see the District reinvest the carryover funds to alleviate some of the

complaints from citizens about the decrease in services, including the rural recycling program and fees now being charged for special wastes. Mayor Edwards agreed that he is receiving complaints from county residents surrounding Centerton as well as city residents regarding the discontinuation of the rural recycling drop-off in Centerton.

Chairman Crabtree suggested that, due to the late presentation of the proposed personnel changes, he would like to hold a special meeting or consider the issue at the next regular meeting.

Motion was made to table the discussion of the proposed personnel changes until the next regular meeting or a future special meeting.

Motion: Mayor Moore

Second: Mayor Edwards

Discussion: Mayor Edwards asked staff to give the board a breakdown of dollar amount of the compensatory time payout versus the increase in annual salary. Chairman Crabtree assured Ms. Land that this decision is in no way a reflection of the job she is doing but rather a need for additional time to review the matter.

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Resolution 2021-02 - 2020 Tire Fund Budget Final Amendment

Director Bland presented the 2020 Final Budget for the Tire Program which resulted in excess reimbursement by the State Used Tire Program in the amount of \$11,460.09. She stated that staff would offer to refund those funds to the State. However, the prior two years, DEQ allowed the District to put those funds toward purchasing additional dry van trailers. She noted that the Board typically would not release those funds for either purpose until the fiscal audit was completed.

Motion was made to approve Resolution 2021-02 – 2020 Tire Fund Budget Final Amendment as presented.

Motion: Mayor Moore

Second: Mayor Edwards

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Resolution 2021-04 - 2020 Compost Fund Final Amendment

Director Bland presented the final amendment to the 2020 Compost Program budget. She reminded the Board that the Rogers facility was closed in September 2020 as approved by the Board and incorporated into the mid-year amendment.

Motion was made to approve the 2021-04 - 2020 Compost Fund Final Amendment as presented.

Motion: Mayor Edwards

Second: Mayor Moore

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Resolution 2021-05 – Authorizing Closure of Compost Fund Bank Account.

Director Bland presented a request to close the compost fund bank account and destroy all financial instruments related to that account.

Motion was made to approve 2021-05 – Authorizing Closure of Compost Fund Bank Account as presented.

Motion: Mayor Moore

Second: Judge Moehring

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Resolution 2021-03 - 2021 Tire Fund Budget and Business Plan Evaluation

Director Bland presented the 2021 Tire Program Budget. An error in the total projected revenue was noted on the budget worksheet. Director Bland presented the 2021 Tire Program Business Plan Evaluation.

Motion was made to amend Resolution 2021-03 – 2021 Tire Fund Budget to correct the total revenue to \$404,600.00 and excess revenue of \$221.34.

Motion: Mayor Edwards

Second: Mayor Moore

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Motion was made to approve Resolution 2021-03 – 2021 Tire Fund Budget as amended and to approve the 2021 Business Plan Evaluation.

Motion: Mayor Edwards

Second: Mayor Moore

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Resolution 2021-06 Authorizing Transfer of Ownership of Recycling Collection Trailers

Director Bland presented a request to transfer ownership of the recycling collection trailers previously used by the District to provide the rural recycling program to the cities now providing the program. All of the trailers were purchased with grant funds more than 7 years ago and fall under Resolution 2017-05 which allows the Board to authorize the transfer or sale of grant-purchased equipment which has been used for the intended purpose for 7 years or more. Three cardboard collection trailers purchased with General Funds are not included in this proposal.

Motion was made to approve Resolution 2021-06 Authorizing Transfer of Ownership of Recycling Collection Trailers as presented.

Motion: Mayor Edwards

Second: Mr. Wilson

Discussion: Judge Moehring asked about the impact of transferring equipment on the possibility of restarting the rural recycling collection in Centerton. Director Bland stated that the proposed transfers would not prevent the District from re-establishing the rural drop off from an equipment perspective. Judge Moehring asked if there was a value tied to the trailers and if the District had to declare the items as surplus. Director Bland explained that the District Rules allow the transfer of grant-purchased equipment without declaring surplus as long as the continued use is for recycling collection.

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

BCO 03-17 Grant Request to Sell, Trade or Transfer

Director Bland presented a request by the District staff to sell, trade or transfer a 2018 TNT 16' high side trailer, VIN.. 26927, that was purchased less than 7 years ago with Grant BCO 03-17, to the City of Decatur. Since it has been used less than 7 years, the formal approval by the Board to transfer the trailer is required.

Motion was made to approve the Request to Sell, Trade or Transfer as presented.

Motion: Judge Moehring

Second: Mayor Edwards

Discussion:

Roll Call Vote Aye: Unanimous

Roll Call Vote Nay: None

Motion carried.

OTHER BUSINESS

Mayor Edwards asked that the board hold a special meeting to address the proposed staff position change after staff provides the requested information rather than waiting until the next regular meeting.

He also requested discussion regarding re-establishing the rural recycling drop-off location in Centerton. Judge Moehring requested that staff determine the options to re-establish the Centerton drop-off. Director Bland stated that it would require an additional staff position in order to restart the service simply to transport the trailers as they filled to the City of Rogers processing facility. She noted that the service at this location was severely abused by citizens, as is the case at all of the other rural sites. Judge Moehring and Mayor Edwards agreed that they would support the District utilizing the excess 2020 funds to support this service. Mr. Haley asked about the travel distance from the District facility to the nearest other facility. Director Bland stated it is less than 7 miles to the Bentonville drop-off.

Chairman Crabtree suggested that staff meet with Judge Moehring and Mayor Edwards to determine the specific concerns of the County and the City and methods to remedy the complaints before developing a proposal to present to the board at a special meeting.

Judge Moehring left the meeting at this point.

Director Bland informed the Board that the Solid Waste District Association had been working with DEQ and consultants to develop three pieces of legislation including: a change to the governance or supervision of the Districts from DEQ to the PC&E Commission; a bill making minor changes to the recycling funds; and a bill to make some changes to the State tire program. Director Bland asked that the Board support the bills with the local representatives and senators.

ANNOUNCEMENTS

Director Bland congratulated Chairman Crabtree on his 26th anniversary as Mayor of the City of Pea Ridge.

Next regularly scheduled board meeting: April 22, 2021 at 1:30 p.m. by Zoom.

ADJOURNMENT:

Motion was made to adjourn the meeting.

Motion: Mayor Edwards

Second: Mr. Wilson

Discussion:

Roll Call Vote Aye: Unanimous

Roll Call Vote Nay: None

Motion carried.

Submitted: _____

Mr. Jerrold Haley
Board Secretary

Date: _____

8/12/21

**Minutes of
THE JOINT MEETING OF THE BENTON COUNTY SOLID WASTE DISTRICT BOARD
AND THE BOSTON MOUNTAIN SOLID WASTE DISTRICT BOARD**

**SPECIAL MEETING
(conducted virtually via Zoom)**

June 01, 2021

****For Information Only – No Formal Actions Taken****

ROLL CALL: Members participating in the video meeting were as follows.

BENTON COUNTY SOLID WASTE DISTRICT

Entity	Representative	Present
Benton County	Judge Barry Moehring	Yes
City of Bella Vista	Mr. Doug Tapp	Yes
City of Bentonville	Mr. Gary Wilson	Yes
City of Centerton	Mayor Bill Edwards	Yes
City of Gentry	Mayor Kevin Johnston	Yes
City of Gravette	Mayor Kurt Maddox	
City of Little Flock	Mayor Tracy Englebrecht	
City of Lowell	Mayor Chris Moore	Yes
City of Pea Ridge	Mayor Jackie Crabtree	Yes
City of Rogers	Mr. Jerrold Haley	Yes
City of Siloam Springs	Mr. Steve Gorszczyk	Yes

Staff present: Director Wendy Bland; Assistant Director Jayme Land

BOSTON MOUNTAIN SOLID WASTE DISTRICT

Entity	Representative	Present
City of Elkins	Mayor Bruce Ledford	
City of Farmington	Mrs. Melissa McCarville	
City of Fayetteville	Mayor Lioneld Jordan	
City of Huntsville	Mr. Travis Dotson	
City of Johnson	Mayor Chris Keeney	Yes
City of Lincoln	Mrs. Rhonda Hulse	
City of Prairie Grove	Mr Chuck Wiley	
City of Springdale	Mayor Doug Sprouse	Yes
City of Tontitown	Mayor Paul Colvin	
City of West Fork	Mr. Isaac Harderson	
Madison County	Judge Frank Weaver	Yes
Washington County	Judge Joseph Wood	

Staff present: Director Robyn Reed, Deputy Director Matt Partain

GUESTS PRESENT:

Entity	Representative
Northwest Arkansas Council	Rob Smith
Northwest Arkansas Council	Dan Holtmeyer

Republic Services
City of Fayetteville
Kingston Vol Fire Department

Jennifer Fagan
Peter Nierengarten
?

AGENDA OVERVIEW

Boston Mountain District Director Robyn Reed welcomed everyone and provided a brief overview of the agenda.

DISTRICT SERVICES AND PROGRAMS

Benton County Regional Solid Waste Management District

Benton County District Director Wendy Bland presented an overview of the Benton County District's programs and services provided.

Director Bland explained that the District services are divided into two categories: those statutorily mandated to be performed by a RSWMD and those that are discretionary (implemented by the local District voluntarily).

Mandatory Administrative services include:

- Conducting Solid Waste Needs Assessments and preparing a 10-year Solid Waste Plan (with annual updates and review of progress)
- Recommendations to local governments regarding solid waste management
- Monitoring compliance of solid waste facilities within the District such as reviewing quarterly inspection reports for each facility
- Issuing or denying Certificates of Need for solid waste facility permits
- Licensing and monitoring of waste haulers operating within the District
- Administering the recycling grant program funded by the State Recycling Grants

Mandatory Operational services include:

- Providing a recycling program compliant with statutory requirements
- Conducting an on-going education program for citizens of the District regarding solid waste management
- Providing a Used/Waste Tire Collection Program with at least one collection center within each county
- Providing an Electronic Waste Collection Program
- Providing a Yard Waste Composting Program open to all residents of the District.

The Benton County District's Programs include:

Recycling Program with collection of glass, metal, recyclable household hazardous waste materials, as well as a Rural Recycling Collection program collecting typical household recyclable materials (such as paper, glass, cardboard, plastic bottles and jugs and cans) with six collection locations throughout Benton County.

Education Program including presentations to civic groups and schools, participating in local events, conducting waste audits for businesses, etc. The program has been adapted for social distancing by increasing focus on social media and municipal events.

Waste Tire Collection Program with 3 collection locations for residents as well as full time collection from dealers and transporters at the District's Collection Facility. The District also partners with cities to collect tires at municipal cleanup events. Residents can dispose of up to 4 tires of any size, with or without the rim, for free each month. Additional tires cost \$3.00 per tire. The Benton County District collects an average of 215,000 tires per year.

Electronic Waste Collection Program with 3 collection locations for residents. Collection from non-households (business, industry, schools, non-profits, agencies, etc.) is provided at the Centerton facility. The District also partners with cities to collect e-waste at municipal cleanup events. The cost per unit is \$5.00 with peripherals (keyboard, mouse, etc.) taken for free. The Benton County District collects an average of 250 tons of e-waste per year.

Yard Waste Collection Program is open to all households and businesses with collection at the exempt small-quantity compost facility in Centerton. The cost is about \$10.00 for a normal pickup load.

Household Hazardous Waste (HHW) Program is open to all households in Benton County and provides free disposal of specified common household materials (chemicals, batteries, paint, cleaners, etc.) typically found in a residence. Fees apply to excess materials. The District also partners with cities to provide staff to collect HHW at municipal cleanup events.

Special Waste Drop-off Program, a partnership between the County Administration and participating cities, providing collection at 3 locations of hard-to-dispose and bulky waste items including furniture and common oversized household items, appliances, electronics, tires, household hazardous wastes, and metal. Many items are accepted at no cost while nominal fees apply to other items. The program receives over 20,000 loads per year.

Boston Mountain Regional Solid Waste Management District

Boston Mountain District Director Robyn Reed presented an overview of the Boston Mountain District's programs and services provided. She noted that the administrative requirements are the same for both districts so she would skip over those.

Ms. Reed noted that their district is comprised of Washington and Madison counties and serves approximately 250,000 citizens. The District employs 15 full time and 2 part time employees.

The Boston Mountain District's services include:

Administration of Recycling Grant Program, operation of Used Tire Program, and Solid Waste Licensing

Household Hazardous Waste Program with permanent locations in Springdale, Prairie Grove, Huntsville and St. Paul

Recycling Program at their primary facility in Prairie Grove, they collect electronic waste, household hazardous waste, recycling, scrap metal, textile recycling, tires and trash. They have an additional public drop-off location in Springdale through a partnership with the City of Springdale.

They provide school recycling collection services to the rural school districts as well as some schools in Springdale. They partner with the University of Arkansas to provide recycling at games.

Community Cleanups and Events

- Rural Recycling trailers delivered to Elkins, Goshen, St. Paul, West Fork and Winslow
- Free electronics collection and recycling in partnership with cities and counties at cleanups
- Mobile Household Hazardous Waste collection at cleanup events and on-going weekly event in Fayetteville
- Provide support to local non-profits and agencies for cleanup events
- Event recycling trailer can be placed on loan at small and large events to facilitate collection of recyclable materials

Environmental Education Program with two full-time educators on staff (one housed in Fayetteville through partnership with City and focuses on City of Fayetteville waste diversion and recycling projects). Provide in classroom, hands-on programs. Conduct annual recycled art competition in Springdale. Green Bench program where schools can register to collect 2,000 #2 plastic bottles and they are awarded a “green” bench made of 1,000 #2 plastic bottles.

Electronic Waste Collection Program with permanent drop-offs in Springdale, Prairie Grove, Saint Paul and Huntsville and provide collection at community events also. Collected over 239 tons in 2020.

Transfer Station in Prairie Grove collecting trash which is disposed of in Eco Vista Landfill in Tontitown. In 2020, collected 43,516 tons and this year about 35% above volume for previous year for the same period.

Dumpster Rental provides District-owned dumpsters for rent to residents and businesses.

Environmental Enforcement Officer is a full-time officer (that investigates violations of District Rules and state law including illegal dumping, illegal burning, hauler and facility violations, etc.). He worked 269 cases in 2020 and is on track for similar # in 2021.

REGIONAL PARTNERSHIPS

Note: The Directors of both Districts as well as Rob Smith (and more recently Dan Holtmeyer) of the NWA Council have been participating on a regional recycling steering committee for the past few years. This group will be focusing on specific actions over the next two years to facilitate improved recycling and diversion in the region.

Business Waste Audits

Both districts have offered waste audits for years but will be focusing more concerted and cohesive effort on them. The goal is to seek out small business that do not have a sustainability team or recycling expertise and provide them with an on-site audit of the types of waste they are generating. As a result, the business may discover materials that can be diverted from landfilling - potentially also saving the business money. Between the two districts, 105 audits will be completed over a two year period with funding from the NWA Council. A database of the audits as well as outcomes will be maintained by the Council.

Local Studies

The regional group will conduct in-depth studies of challenges to recycling with a goal to improve the recycling rates and quality of materials. Studies will be conducted in two cities within each district each year for two years (4 total studies). Various parameters of recycling behavior will be studied including: set out rate; contamination rate; participation rate; etc. Strategies will be developed and piloted to attempt to improve the parameters studied. The findings of the studies will be publicized and will be used to improve education and outreach to the region.

Regional Recycling Study

Dan Holtmeyer with NWA Council provided information on the regional studies that have been conducted. In 2018, the NWA Council added recycling to its Regional Development Strategy. The NWA Council identified three focus areas: The Council facilitated two regional studies related to this initiative.

The Sustainability Consortium study on Circular Economies – focused on use of materials generated in the region by local manufacturers and businesses. In order to facilitate this, the region will need more material, cleaner material, more participation by both businesses and public, and more trust in the process. The study’s primary recommendations are:

- 1) Strengthen regional coordination – have a single point of contact for all stakeholders in the area (the NWA Council has hired Dan to fulfill this role); keep stakeholders meeting on a quarterly basis; create a shared vision for the regional recycling initiative via the stakeholder group;

conduct Recycling Inspiration activities (site visits for elected officials/decision makers to facilities in other areas such as the trip to Austin in 2019)

- 2) Data and transparency – prepare an annual report (first one due in March 2022) on regional recycling including quantities and types collected, where it goes, etc. Using the Municipal Measurement Program system ([/www.municipalmeasurement.com](http://www.municipalmeasurement.com)) for each city/county/district to input data. The NWA Council is paying the subscription for the region to use the program. Report out what's happening regionwide and highlight programs. Can be used by decision makers. Can build trust with local residents.
- 3) Education and awareness – Regional website to educate citizens what they can recycle in their local area and how to do it along with contact information. Develop toolkits for various organizations interested in educating others about recycling. Establish blog for progress and highlights; city events; circular economies; etc. And community engagement events in fall 2021 and fall 2022.

SOLID WASTE CONTRACT ADVISOR

In order to improve diversion and recovery of materials in the region, we must streamline the specific materials that are collected. This task is hampered by current municipal waste contracts – they are inconsistent in regard to services provided, materials collected, materials recycled, etc. Contracts should prioritize transparency and data reporting back from the hauler, possibly multi-city contracts, and best practices. The Districts are available to all cities to assist with development of bid and contract documents. District staff will expand subject matter expertise through training with consultants as a train-the-trainer process. The Districts will then provide training for municipal staff about solid waste contracting. We will also be working on developing a “model contract” that would include boilerplate language for every type of solid waste service – cities could pick and choose which to include. Final decisions always remain with the city. Some of the best practices may not require a contract modification and could potentially be implemented immediately by simply asking the hauler. Districts ask all cities to reach out to the local district before beginning contracting process as it renews.

PUBLIC COMMENT

Chairman Sprouse commented that he thinks the joint meetings are beneficial and, as we move forward, it will help everyone.

Judge Moehring stated that the region will be at 1,000,000 people by 2045 and the decisions being made now will have an impact through that time. Area citizens do not recognize a boundary between the two districts. He suggested possibly forming committees for the bigger issues and recommended a similar approach to the Regional Planning Commission.

Chairman Crabtree echoed comments by Mayor Sprouse and Judge Moehring. He stated that the reason that the Regional Planning Commission has worked so well is that it has taken a regional approach to the large infrastructure issues.

NEXT STEPS

The next step will be the development of the vision statement at the entire Stakeholder meeting next month. The vision will drive the goals for the region so it is important for elected officials to participate or delegate someone from the agency to participate.

In addition, the Regional Recycling Master Plan study will be published soon. There will be recommendations coming out of that study that will be opportunities for various committees to get involved.

Rob Smith stated that the NWA Council will be identifying some benchmark communities that may provide examples of what our region may want to move toward.

**Minutes of
THE BENTON COUNTY SOLID WASTE DISTRICT BOARD
REGULAR MEETING
At Hunt Family Ozark Highlands Nature Center and conducted virtually via Zoom
August 12, 2021**

CALL TO ORDER: The Regular Meeting of the Solid Waste District Board was called to order by Board Chairman Jackie Crabtree at the District Business Office at 1:30 p.m.

ROLL CALL: District Program Manager Jayme Land recorded the roll based on each member's appearance in the video meeting.

Board members present:

Mr. Doug Tapp, City of Bella Vista
Mr. Gary Wilson, City of Bentonville
Mayor Bill Edwards, City of Centerton
Mayor Jeff Van Sickler, City of Little Flock
Mayor Jackie Crabtree, City of Pea Ridge
Mr. Jerrold Haley, City of Rogers
Mr. Steve Gorszczyk, City of Siloam Springs

Members Absent:

Judge Barry Moehring, Benton County
Mayor Kurt Maddox, City of Gravette
Mayor Kevin Johnston, City of Gentry
Mayor Chris Moore, City of Lowell

A quorum of members was present.

Staff Present: Director Wendy Bland; Assistant Director Jayme Land

Guests Present: Teresa Sidwell – Benton County Environmental Services; Terry Sligh – DEQ; Jennifer Fagan – Republic Services; Dan Holtmeyer – NWA Council

APPROVAL OF AGENDA:

Motion to approve the Agenda as presented.

Motion: Mr. Wilson

Second: Mr. Haley

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

APPROVAL OF MINUTES:

Motion to approve the minutes of the January 28, 2021 Regular Meeting, March 1, 2021 Special Meeting, and June 1, 2021 Joint Meeting with BMSWD Board as presented.

Motion: Mr. Haley

Second: Mr. Wilson

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

STAFF REPORTS:

Financial Report

Director Bland stated that the financial records had been provided to the Board prior to the meeting.

Director's Report

Director Bland informed the Board that staff has issued the Request for Proposals on the Used Tire Services contract and the responses are due by August 31, 2021

Staff also issued the Request for Proposals for the 10-year Needs Assessment and the responses are due by September 1, 2021.

Chairman Crabtree stated that the Advisory Committee would be assigned to review the responses and select the winning proposals.

Director Bland informed the Board that the District's semi-tractor was damaged in an accident with Walmart Transportation and they will be paying for the damages to the truck.

Director Bland reported that the Special Waste Drop Off program has received approximately 10,000 loads year-to-date. This is about 3.7% of the population using the program. As plans for 2022 are made, this is a topic to be reviewed.

In addition, the Tire Program received 69,000 tires in the last quarter which is the largest volume of tires ever received in one quarter (by about 20,000 additional tires).

PUBLIC FORUM: No comments were received.

GRANTS:

BCO 03-05 Notice of Intent to Sell, Trade or Transfer

Director Bland explained that the District is no longer processing household recyclables, such as plastic bottles, and therefore the District is no longer using the 2006 J.V. Manufacturing 60" Vertical Baler #VB02971-01. The City of Rogers could use this baler in processing the District's material collected through the rural recycling program. Staff presented a request to transfer the baler to the City of Rogers.

Motion was made to approve BCO 03-05 Notice of Intent to Sell, Trade or Transfer and authorize the transfer of the baler to the City of Rogers.

Motion: Mr. Wilson

Second: Mayor Van Sickler

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

2021 Recycling Grant Appropriations

The Grant Committee met on August 5th by Zoom to review applications for the 2021 Recycling Grant funds. The Committee recommended that the Board allocate funds to the District's Program application in the amount of \$211,571.00 from the 2021 Recycling Grant funds and to show priority to Elm Spring's project, if funds become available.

Motion to allocate the 2021 Recycling Grant appropriations to the District's Program grant.

Motion: Mayor Van Sickler

Second: Mr. Gorszcyk

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

OLD BUSINESS:

Update on status of the Eco Vista Lawsuit

Director Bland stated that there was a hearing in May related to the District's release of interpleader funds. Staff is working through the documentation that was requested by the court related to allegations by Boston Mountain District and Waste Management/Eco Vista that the Benton County District has been receiving fees from haulers as well as seeking fees from the court.

In addition, Waste Management/Eco Vista also requested a decision by Summary Judgement.

NEW BUSINESS:

Presentation of 2019 Financial Audit Report

Director Bland presented the 2019 Financial Audit Report prepared by Przybysz & Associates. As of 12/31/19, the auditors found that duties were not as segregated as they should be. Staff implemented additional separation of duties protocols to address this including assigning accounting duties to the Tire Clerk and Special Waste Program Clerk.

Motion to accept the 2019 Financial Audit Report.

Motion: Mr. Haley

Second: Mr. Gorszczyk

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Motion was made to read all resolutions by title only.

Motion: Mr. Haley

Second: Mr. Wilson

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Resolution 2021-08 - 2021 Tire Fund Mid-Year Budget and Business Plan Evaluation Amendment

Director Bland presented the proposed amendments and explained that the expenses of the Tire Program are exceeding original projections, primarily related to shut downs by Buzzi Unicem resulting in additional trailer rentals, truck breakdowns resulting in truck rentals, and overall processing more tires.

Motion to approve Resolution 2021-08 - 2021 Tire Fund Mid-Year Budget and Business Plan Evaluation Amendment as presented.

Motion: Mr. Haley

Second: Mr. Wilson

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Resolution 2021-09 - 2021 General Fund Mid-Year Budget Amendment

Director Bland presented the proposed amendment including reductions in the E-waste Grant revenues and the Waste Disposal expenses related to paying the processing of electronic waste directly out of the Recycling Grant instead of transferring it into the General Fund. In addition, the Special Waste Fees are reduced primarily due to a reduction in actual volume of collection of electronic waste originally forecasted at 15,000 pieces and actuals will be closer to 6,000 pieces.

Motion to approve Resolution 2021-09 - 2021 General Fund Mid-Year Budget Amendment as

presented.

Motion: Mr. Wilson

Second: Mr. Haley

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Resolution 2021-10 - Amendment to Personnel Policy

Director Bland presented a proposed amendment to the Personnel Policy Subsection 3.11.3.4 to waive the requirement for attorney review of terminations of any staff employed for less than 90 days as long as proper documentation was maintained related to performance. She explained that this would facilitate the District's ability to hire direct rather than through a temp-to-hire process. In addition, she asked the Board to waive the requirement of Personnel Policy Subsection 5.1.1 Maximum Accumulation for Director Wendy Bland and Assistant Director Jayme Land to prevent the unnecessary loss of earned paid time off hours. Chairman Crabtree stated that he would like to see Subsection 5.1.1 waived for calendar year 2021.

Motion to approve Resolution 2021-10 - Amendment to Personnel Policy as presented.

Motion: Mayor Van Sickler

Second: Mr. Haley

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Revised Hauler Licensing Application

Director Bland presented a proposed amended application form for review. She explained that the District's Rules require the board to approve the application. Proposed modifications include adding areas for types of services provided and which municipalities are served. In addition, designating the application as Type I haulers to match the law. Other changes include business information for the hauler.

Motion to approve the revised Hauler Licensing Application as presented.

Motion: Mr. Haley

Second: Mayor Van Sickler

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

2022 Budget Planning Process

Director Bland stated that staff would like to meet individually with each of the members to develop what programs and services should be prioritized in the 2022 budget.

OTHER BUSINESS: None.

ANNOUNCEMENTS:

Director Bland welcomed new board member, Mayor Jeff Van Sickler of the City of Little Rock.

Next regularly scheduled board meeting: October 28, 2021 at 1:30 p.m. with location to be determined.

ADJOURNMENT:

Motion was made to adjourn the meeting.

Motion: Mayor Edwards
Second: Mr. Haley
Discussion: None
Roll Call Vote Aye: Unanimous
Roll Call Vote Nay: None

Motion carried.

Submitted: 

Mr. Jerrold Haley
Board Secretary

Date: 10/28/2021

**Minutes of
THE BENTON COUNTY SOLID WASTE DISTRICT BOARD
REGULAR MEETING
October 28, 2021**

CALL TO ORDER: The Regular Meeting of the Solid Waste District Board was called to order by Board Chairman Jackie Crabtree at the Centerton City Hall at 1:30 p.m. Participation in the meeting was also provided via Zoom.

ROLL CALL: Assistant Director Jayme Land called roll.

Board members present:

Judge Barry Moehring, Benton County
Mr. Doug Tapp, City of Bella Vista
Mr. Gary Wilson, City of Bentonville
Ms. Pam Grant as proxy for Mayor Bill Edwards, City of Centerton
Mayor Jeff Van Sickler, City of Little Flock
Mayor Jackie Crabtree, City of Pea Ridge
Mr. Jerrold Haley, City of Rogers
Mr. Steve Gorszczyk, City of Siloam Springs

Members Absent:

Mayor Randall Noblett, City of Cave Springs
Mayor Kevin Johnston, City of Gentry
Mayor Kurt Maddox, City of Gravette
Mayor Chris Moore, City of Lowell

A quorum of members was present.

Staff Present: Director Wendy Bland; Assistant Director Jayme Land

Guests Present: Teresa Sidwell – Benton County Environmental Services; Everett Hatcher – DEQ Tire Accountability Program

APPROVAL OF AGENDA

Motion to approve the Agenda as presented.

Motion: Mr. Haley
Second: Ms. Grant
Discussion: None
Voice Vote Aye: Unanimous
Voice Vote Nay: None
Motion carried.

APPROVAL OF MINUTES

Motion to approve the minutes of the August 12, 2021 Regular Meeting, as presented.

Motion: Mr. Haley
Second: Mr. Wilson
Discussion: None
Voice Vote Aye: Unanimous
Voice Vote Nay: None
Motion carried.

STAFF REPORTS

Financial Report

Director Bland stated that the financial records had been provided to the Board prior to the meeting.

Director Bland informed the board that the 2020 Fiscal Audit has begun. The auditors have completed clean up of the system from prior years. A request for an extension of time has been submitted to DEQ. The auditor indicated that the audit should be completed by the end of the year.

Director's Report

Director Bland informed the Board that all items would be covered as agenda items.

PUBLIC FORUM - No comments were received.

OLD BUSINESS — No old business was presented.

NEW BUSINESS

Resolution 2021-11 – 2022 – 2032 Needs Assessment Contract

Director Bland informed the board that the Request for Proposals for development of the 10-year needs assessment was published and three responses were received from qualified bidders. Staff analyzed the proposals and costs and identified Hodges Engineering as the highest scored bidder. Staff negotiated with Hodges Engineering and developed a draft agreement. Director Bland recommended contracting with Hodges Engineering.

Motion to read all resolutions by title only.

Motion: Mr. Haley

Second: Mr. Wilson

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Motion to approve Resolution 2021-11 – Authorizing Professional Services Contract for 2022 – 2032 Needs Assessment as presented.

Motion: Mr. Haley

Second: Judge Moehring

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Resolution 2021-12 – 2021 Tire Fund 4th Quarter Budget and Business Plan Amendment

Director Bland explained that the Tire Fund budget was going to require an amendment due to increases in expenses, primarily related to increased trailer rental of \$44,000 and higher disposal costs. She stated that staff issued a Request for Bids for tire disposal due to limited disposal capacity of Buzzi Unicem cement kiln, the main disposal location currently used by the District. The budget amendment includes plans to utilize a new disposal facility, Jordan Disposal, for the overflow. That new facility has a significantly higher cost per ton at \$70.00 per ton versus \$15.00 per ton for Buzzi Unicem. The majority of tires in 4th Quarter will be delivered to Jordan Disposal, which will affect the overall budget. The business plan includes the possibility of DEQ authorizing the use of prior year excess reimbursements to lower the 4th Quarter per tire rate. The excess reimbursements were moved to the Restricted Reserve; therefore, the resolution also authorizes the movement of those funds into the Tire Fund.

Motion to approve Resolution 2021-12 – 2021 Tire Fund 4th Quarter Budget and Business Plan Amendment as presented.

Motion: Mr. Haley

Second: Mayor Van Sickler

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Resolution 2021-13 – 2022 Tire Fund Year Beginning Budget and Business Plan

Director Bland presented the proposed 2022 Tire Fund budget and business plan. Staff anticipates approximately the same number of tires but disposal costs will be higher as Jordan Disposal will receive a larger number of tires. Trailer rental fees should decrease, however, as a result of tires being processed rather than stored on trailers at Buzzi Unicem. In addition, the semi-tractor currently used by the Tire Program was purchased with a Recycling Grant many years ago and has reached the end of its useful life. The proposed budget includes a plan to lease a replacement truck with some offset from reduced repairs and maintenance.

Motion to approve Resolution 2021-13 – 2022 Tire Fund Year Beginning Budget and Business Plan as presented.

Motion: Mr. Haley

Second: Mr. Wilson

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Resolution 2021-14 – 2021 – 2023 Tire Service Agreements

Director Bland informed the Board that three bids were received in response to the Request for Bids for tire disposal services. Bidders were two existing vendors (Buzzi Unicem and Champlin Tire) and one new vendor (Jordan Disposal). The disposal contracts are non-exclusive and staff is recommending contracting with each of the three vendors.

Motion to approve Resolution 2021-14 – 2021 – 2023 Tire Service Agreements as presented.

Motion: Judge Moehring

Second: Mr. Haley

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Resolution 2021-15 – 2021 General Fund Budget Final Amendment

Director Bland informed the Board that the budget amendment would incorporate necessary changes resulting from the recent ruling in the Waste Management / Eco Vista lawsuit. The decision effectively requires that the fee on waste collected in Benton County District and disposed in Boston Mountain District be divided in half. The court is currently holding approximately \$200,000.00 in fees that have been identified by the court as belonging to Benton County District. Those fees should be released to the District before the end of the year.

Director Bland advised that the Board has the option to appeal the court's decision, if desired. Chairman Crabtree stated that he felt that the Board may want to accept the decision in order to avoid additional legal fees.

Director Bland explained that the court's decision makes it difficult to determine and explain how the Benton County District's Rules apply to haulers. Staff requested approval to remove optional language from the Waste Hauler Licensing Application regarding the collection of the Solid Waste Fees until the transcript from the case is received and staff has a better understanding of the implications.

Motion to approve the revised Waste Hauler Licensing Application as presented.

Motion: Mr. Haley

Second: Mayor Van Sickler

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Director Bland presented the results of the Salary Study Report prepared by Johanson Group. The report analyzed the salary range for each position as well as the recommended salary range based upon the length of service for each current employee. The report indicated that several employees were below the minimum pay scale. Director Bland reminded the Board that no merit increases had been approved for District staff since 2016 which has resulted in the discrepancy between current pay rates and the market rates. Director Bland presented budget figures three options for the 2021 Final Compensation: 1) leave pay rates as is through year end; 2) raise rates to target rates (based upon recommended scale and length of service) for all employees that are below target rates which would result in \$12,000 increase; 3) raise only the four positions that are below the minimum pay scales which would result in \$6,500.00 increase. Director Bland explained that the proposed budget was built as raising all employees to the target rate.

Director Bland informed the board that the Time in Position Bonus has been budgeted in the compensation since the beginning of the year. The Bonus Base Amount was budgeted at \$500.00 to the employee with the District paying the taxes so that staff receives the full Base Amount. She noted that staff requests Board approval of the Bonus Base Amount each year prior to distributing any bonuses. Staff that have been employed less than a year receive a proportional amount.

Director Bland presented the proposed budget amendment. She noted about \$14,000 additional Solid Waste Fees which does not include any fees held by the court. Director Bland discussed the Earned Revenues versus the Special Revenues and pointed out the large amount of grant funds and prior year funds used in 2021 in order to keep the mandatory programs operating. Director Bland also explained that mandated program staff members have been forced to operate the Special Waste Drop Off program for much of the year due to an inability to attract applicants to fill the attendant position(s). As a result, the Special Waste Drop Off program personnel expenses were reduced by about \$35,000.00. Director Bland proposed in the budget that the excess contributions paid by the partner entities would be applied the General Fund's costs for mandated program staff members.

Mr. Haley asked about the cost of the Recycling Program. He asked that the Board remember that the District is paying for the recycling for many cities that are not contributing any financial support for the recycling program while they are receiving free recycling services. Chairman Crabtree and Mr. Wilson stated that they felt that the \$0.50 per person per year Local Member Contribution was funding the recycling program. Mr. Haley asked why all cities are contributing but are not receiving free recycling. Director Bland clarified that the Local Member Contribution does not fund the recycling program – it is actually to fund the mandatory services. Mr. Haley also stated that if the cities were providing the service, it would be more efficient because unnecessary pulls would not happen. Director Bland stated that the Needs Assessment may indicate that the Rural Recycling Program may not be identified as the best use of District funds. She noted that staff was simply trying to maintain the existing services until the Needs Assessment was completed.

Director Bland thanked Mr. Haley for his willingness to process all of the material collected by the Rural Recycling Program.

Mayor Van Sickler asked when the proposed raises would become effective. Director Bland stated the effective date would be October 16th which is the current pay period.

Chairman Crabtree asked if the resolution also includes the Time in Position Bonus. Director Bland stated that it does.

Motion to approve Resolution 2021-15 – 2021 General Fund Budget Final Amendment as presented.

Motion: Mr. Haley

Second: Mr. Wilson

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Chairman Crabtree instructed staff to have the Salary Study Report reviewed by the Personnel Committee prior to implementing the pay scale adjustments on new hires.

Resolution 2021-16 – 2022 General Fund Budget

Director Bland presented the proposed 2022 compensation plan which includes maintaining the increased pay rates at the minimum of the target range from the 2021 budget as well as a proposed 6% Cost of Living Adjustment which is required to be proposed pursuant to the District's Personnel Policy. The Board may choose not to implement the COLA.

Discussion ensued regarding the application of a COLA after significant raises for several of the positions. Director Bland reminded the board that the District will be back into the position of being unable to compete for staff members if we regularly fail to implement COLA increases.

Motion to approve Resolution 2021-16 – 2022 General Fund Budget as presented.

Motion: Mayor Van Sickler

Second: Mr. Haley

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Resolution 2021-17 – 2022 Special Waste Program Service Agreement

Director Bland presented a proposed agreement for the operation of the Special Waste Drop Off Program in partnership with member entities. She noted a vote by the board is related only to allowing the District to enter into the agreement and will not commit any of the member entities to participating in the agreement. If approved by the District Board, the agreement will be forwarded to potential partner entities for review and adoption.

Director Bland noted that staff had failed to provide the member entities with the quarterly reports for 2021 program operations. She presented the year-to-date report through September 30th with information on the number of loads received at each location, the # of items in each category, as well as financial data. She pointed out that the revenue from metal collected through the program at the Siloam Springs location is currently being received by the City of Siloam Springs and not the program. This matter may need to be addressed as the agreement states that the revenue will be received by the program.

Director Bland presented proposed 2022 program contributions by entities that have indicated willingness to at least attempt to include the contribution in their 2022 budget. She explained that the exact amount for each partner entity will not be known until the budgets are actually approved by the respective entities and the total costs of the program can be accurately divided between the entities based on percentage of population.

Ms. Sidwell asked to clarify if the 2022 agreement includes the County continuing to pay for the disposal of the furniture/oversized item disposal. Director Bland noted it is under the County's Responsibilities section.

Mr. Haley asked if the funding of the program by the partner entities would remain contingent upon the results of the lawsuit. Director Bland stated that the agreement does include the Board reviewing the funding each quarter and the board could decide at any time to reduce or discontinue the special contributions.

Mr. Haley asked if the District would take the funding back over with the extra Solid Waste Fees that would be released by the court. Director Bland stated that this would potentially be possible for 2022 but it would not be sustainable as there would not be money released from prior years going forward. The revenue that the District is able currently to generate can solely fund the mandatory services and nothing else. Chairman Crabtree agreed that the special contributions toward the Special Waste Drop Off Program are for a program that is above and beyond the required level of service by the District.

Director Bland explained that if the special contributions are not available, the District would still collect HHW, electronic waste, metal and potentially furniture but only at Centerton and with greatly reduced hours as several positions would be eliminated and remaining staff would have to do all collection, transport, processing and shipping of the collected materials. Chairman Crabtree stated that sometimes citizens do not understand that there is a true cost to these programs and we may be offering too many services.

Mr. Wilson stated that the City of Bentonville feels that it is a late request to seek funding from the cities. The City of Bentonville will likely not participate. He stated that the proposed funding should have been sought in August.

Motion to approve Resolution 2021-17 – Authorizing 2022 Special Waste Drop Off Program Service Agreement as presented.

Motion: Mr. Haley

Second: Ms. Grant

Discussion: Judge Moehring asked for clarification that the partner entities still have the option to have the proposed agreement reviewed by their own counsel. Director Bland stated that resolution does authorize the Director to make minor changes as needed to ensure the adoption by the member entities.

Voice Vote Aye: Judge Moehring; Mr. Tapp; Ms. Grant; Mayor Van Sickler; Mayor Crabtree; Mr. Haley; Mr. Gorszczyk

Voice Vote Nay: Mr. Wilson

Motion carried.

OTHER BUSINESS:

Mr. Wilson requested that, once the transcript of the Judge's decision in the case is received, it be sent out to the full board.

ANNOUNCEMENTS:

Next regularly scheduled board meeting: January 27, 2022 at 1:30 p.m. with location to be determined at a later date.

ADJOURNMENT:

Motion to adjourn the meeting.

Motion: Mr. Haley

Second: Ms. Grant

Discussion: None

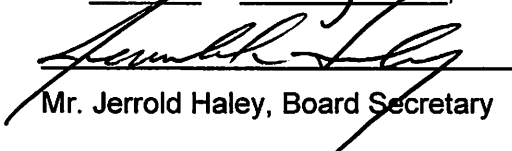
Roll Call Vote Aye: Unanimous

Roll Call Vote Nay: None

Motion carried.

SECRETARY'S CERTIFICATE:

I certify that the foregoing is a true and correct copy of the minutes approved by the Board of Directors on the 9 of Aug, 2022.


Mr. Jerrold Haley, Board Secretary

8/9/2022
Date

**MINUTES OF
THE BENTON COUNTY SOLID WASTE DISTRICT BOARD
SPECIAL MEETING
December 13, 2021**

CALL TO ORDER: The Special Meeting of the Solid Waste District Board was called to order by Board Chairman Jackie Crabtree at the District Business Office at 1:01 p.m. Participation in the meeting was also provided via Zoom.

ROLL CALL: ASSISTANT DIRECTOR Jayme Land called the roll.

Board members present:

Judge Barry Moehring, Benton County
Mr. Doug Tapp, City of Bella Vista
Mr. Gary Wilson, City of Bentonville
Mayor Bill Edwards, City of Centerton
Mayor Kevin Johnston, City of Gentry
Mayor Jeff Van Sickler, City of Little Flock
Mayor Jackie Crabtree, City of Pea Ridge
Mr. Jerrold Haley, City of Rogers
Mr. Steve Gorszcyk, City of Siloam Springs

Members Absent:

Mayor Randall Noblett, City of Cave Springs
Mayor Kurt Maddox, City of Gravette
Mayor Chris Moore, City of Lowell

A quorum of members was present.

Staff Present: Director Wendy Bland; Assistant Director Jayme Land

Guests Present: Teresa Sidwell – Benton County Environmental Services; Tom Sissom – NWA Democrat Gazette

PUBLIC FORUM

Chairman Crabtree called for any comments from the public. No comments were offered.

SPECIAL BUSINESS

Motion was made to read all resolutions by title only.

Motion:

Second:

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

ECO VISTA/WASTE MANAGEMENT LAWSUIT

Financial Impact of the Decision

Director Bland reminded the board of the information previously distributed to the board in advance of the meeting regarding the impacts of the lawsuit decision. She summarized that the circuit court's decision indicated that Boston Mountain District's \$1.50 Waste Assessment Fee would override the Benton County District's Solid Waste Fees on waste collected in Benton County but delivered to Boston Mountain District for disposal. Since no interlocal agreement is in place to dictate the division of the Waste Assessment fee,

each district will receive half of the fee. Benton County District will only receive \$0.75 per ton on waste delivered to Boston Mountain District.

Director Bland reminded the board that the 2022 General Fund budget approved in October already accounted for the loss of the \$0.75 per ton on waste hauled to Boston Mountain District totaling \$211,338.00.

On waste hauled out of state, the Benton County District can collect the full \$1.50 in Solid Waste Fees but we cannot require the haulers to collect and remit the fee on our behalf. However, haulers can voluntarily collect and remit the fee on out of state waste. The largest out-of-state hauler is Republic Services. Discussions with the Jennifer Fagan, the area municipal liaison for Republic Services. Ms. Fagan indicated that, although she is not the final decision maker, she believes that Republic Services will continue to collect and remit those fees rather than attempt to back those fees out of all the rates charged to Benton County customers.

So, currently, there appears to be no additional impact on the 2022 General Fund budget.

Options Regarding the Decision

Director Bland explained that the options available to the board are:

1. Appeal the decision
2. Accept the decision
3. Attempt to rectify through legislation

Chairman Crabtree asked how the decision affects other districts. Director Bland stated that it does not affect other districts as no one else enacted the Service Fee as a funding mechanism.

Potential Appeal

An appeal of the decision must be filed by December 23rd. The primary question at hand is whether the plain language of the law supports the judge's decisions:

- a) that a receiving District's Waste Assessment fee supersedes a properly enacted Service Fee if waste is transported outside the generating district into a receiving district that has enacted a Waste Assessment fee.
- b) that the generating district does not have the right to set the rate of the Waste Assessment fee without approval of the receiving district.
- c) that, lacking any instructions in the statute as to allowed collection methods for Service Fees, Districts lack the authority to have haulers collect the fee.

Judge Moehring asked why there is such a quick turn around on being forced to file an appeal. Director Bland explained that the law allows only 30 days after a decision is filed by the court to file an appeal.

Judge Moehring asked if we have any idea of our chance to be successful and what the timing might look like and what we would do in the meantime. Director Bland explained that the previous appeals have taken upwards of a year for decision to be rendered. She stated that the 2022 budget is solid as long as Republic Services does in fact continue to collect the Service Fee. Regarding the potential for success, it is difficult to forecast but the language of the law does not match the judge's decision. The judge developed an opinion of the intent of the law due to an absence of guiding language in the law.

Judge Moehring stated that he would like some guidance from the District Staff Attorney, Curtis Hogue, regarding the likelihood of success. He also noted previous discussions that perhaps the District might seek to engage an attorney that specializes in appellate work.

Chairman Crabtree asked if Mr. Hogue could file the notice of the appeal in order to allow us time to develop additional information.

Judge Moehring asked if the only down-side to an appeal is the additional legal fees. Director Bland stated that there is no additional harm that can come from an appellate decision.

Mr. Wilson stated that the City of Bentonville's attorney reviewed the matter and also spoke with Mr. Hogue. Her recommendation was that this type of case should be appealed.

Judge Moehring noted that, if we won on appeal, Boston Mountain District might elect to appeal to the State Supreme Court.

Judge Moehring noted that he spoke with the County's attorney, Mr. Spence, about the case. Judge Moehring added that he sees no downside to appealing the case.

Director Bland stated that she believes that if the Board does not want to pursue the District collecting the Service Fee directly, then the only option is to appeal the decision and hope to obtain full funding. Otherwise, the District would accept half of the waste assessment fees and would be unable to maintain services at current levels and would have no potential for expanding services to meet the needs of citizens.

Motion to appeal the decision of the Circuit Court judge regarding the District's solid waste fees.

Motion: Mr. Wilson

Second: Judge Moehring

Discussion: None

Voice Vote Aye: Unanimous

Voice Vote Nay: None

Motion carried.

Alternative Funding Mechanisms

Director Bland explained that the legislature provided only two methods for a District to collect fees: 1) waste assessments; and 2) service fees. Chairman Crabtree stated that, although the law allows the District Board to collect the service fee through the tax collector, he feels that is entirely the wrong way to go. Mayor Edwards stated that he thought there was a requirement for a new levy to be approved by the voters. Director Bland stated that the law is extremely clear that the Board can levy the fee and collect it through the tax collector by a simple board vote. Discussion ensued regarding the Board member's concerns about the District having the power to place a lien on the property.

Director Bland reminded the board that the service fee did not have to be collected through the tax collector. The District could directly bill each citizen and business or could partner with another government agency that already bills citizens and have the fees collected in that way. There are approximately 95,000 households and about 13,000 businesses.

Mayor Edwards asked about the projected amount per household. Director Bland stated that the amount had not been determined. She noted that she had done some very rough projections when originally discussing with Chairman Crabtree and it appeared to be no more than \$5.00 per year per household.

Director Bland stated that the District must have adequate funds to fulfill the mandated responsibilities of a District. She asked the Board how they would like to fund the District if they do not want to utilize the two available funding mechanisms.

Mr. Wilson stated that he feels that the discussion of the funding mechanisms can be held until a later time to allow more analysis of the various options.

Rulemaking Impact of the Decision

Director Bland explained that portions of the District Rules were voided by the decision. In addition, the decision convoluted the collection and payment of the various fees based upon whether the waste would be hauled out of state or to BMSWD. This will require us to conduct a full rulemaking process to rewrite, at minimum, the Solid Waste Fees chapter of the Rules.

Chairman Crabtree suggested changing the funding back to solely Waste Assessment fees and increasing the fee to \$2.00 per ton. He acknowledged that Boston Mountain District would receive half of the fees on waste delivered to that district for disposal.

Director Bland stated that this could be accomplished but would not provide adequate funding for the mandatory services at current levels of service. She noted that she believes that the appeal will place a stay on the judge's decision until a decision is issued. She encouraged the Board to not make a decision yet as we could be successful with the appeal, in which case, we would receive 100% of the Solid Waste Fees. If we changed our rules now to revert to Waste Assessment fees, we would be guaranteed to lose 50% of the fees on waste delivered to Boston Mountain District.

Ms. Land suggested that the City's could alter their contracts and collect the fee on behalf of the District. Discussion regarding how to implement that resulted in concerns about the lengthy terms of existing contracts.

Director Bland also reminded the Board that the Needs Assessment process will be identifying funding mechanisms as well. She recommended that the Board postpone further discussion of changes to the Rules until the decision is issued.

OTHER BUSINESS

Special Waste Program Commitments

Director Bland presented updated projections on the potential special contributions. She explained that the County, the City of Rogers, the City of Pea Ridge and the City of Siloam Springs have already approved the special contributions in their 2022 budgets. The City of Bella Vista and the City of Centerton have not yet passed the budget with the special contributions but expect it to be before the council in the next couple of weeks.

ANNOUNCEMENTS:

Next regularly scheduled board meeting: January 27, 2022 at 1:30 p.m.

Ms. Land thanked all of the cities for assisting in distributing the Needs Assessment survey. We have received good response to the survey so far.

Chairman Crabtree stated that the Board will elect the 2022 officers at the January meeting. The nominating committee will meet prior to that meeting.

ADJOURNMENT:

Motion to adjourn the meeting.

Motion: Mr. Haley

Second: Mayor Edwards

Discussion: None

Roll Call Vote Aye: Unanimous

Roll Call Vote Nay: None

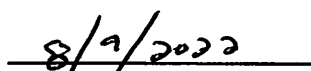
Motion carried.

SECRETARY'S CERTIFICATE:

I certify that the foregoing is a true and correct copy of the minutes approved by the Board of Directors on the 9 of Aug, 2022.



Mr. Jerrold Haley, Board Secretary



Date