

**MIRA
REGULAR TELEPHONIC BOARD
MEETING
APRIL 28, 2016**

Materials Innovation and Recycling Authority

100 Constitution Plaza

Hartford, Connecticut 06103

Telephone (860)757-7700 - Fax (860)757-7743

MEMORANDUM

TO: MIRA Board of Directors

FROM: Moira Kenney, Assistant HR Manager/Board Administrator

DATE: Apr. 22, 2016

RE: Notice of Regular Telephonic Board Meeting

There will be a Regular Telephonic Meeting of the Materials Innovation and Recycling Authority Board of Directors on Thurs. Apr. 28, 2016, at 9:30 a.m. The meeting will be available to the public in the Board Room at 200 Corporate Place, Suite 202, Rocky Hill, CT 06067.

Please notify this office of your attendance at (860) 757-7787 at your earliest convenience.

Materials Innovation Recycling Authority
Regular Telephonic Board of Directors Meeting

Agenda
April 28, 2016
9:30 AM

I. Pledge of Allegiance

II. Public Portion

A ½ hour public portion will be held and the Board will accept written testimony and allow individuals to speak for a limit of three minutes. The regular meeting will commence if there is no public input.

III. Minutes

1. Board Action will be sought for Approval of the Regular March 24, 2016, Board Meeting Minutes (Attachment 1).

IV. Finance Committee Report

V. Chairman and President's Reports

VI. Executive Session

An Executive Session will be held to discuss pending litigation, trade secrets, personnel matters, security matters, pending RFP's, and feasibility estimates and evaluations.

VII. Legal

1. Board Action will be sought for Resolution Regarding Additional Projected FY'16 Legal Expenses (Attachment 2).

TAB 1

MATERIALS INNOVATION AND RECYCLING AUTHORITY

FOUR HUNDRED AND SIXTY THIRD

MARCH 24, 2016

A regular meeting of the Materials Innovation and Recycling Authority Board of Directors was held on Thurs. March 24, 2016, in the Board Room at 211 Murphy Rd. Hartford, CT 06103. Those present were:

Directors: Chairman Don Stein
Vice-Chairman Dick Barlow
John Adams
Marilynn Cruz-Aponte
Ralph Eno
Jim Hayden
Andy Nunn (present by telephone)
Bob Painter
Scott Shanley

Present from MIRA in Hartford:

Tom Kirk, President
Mark Daley, Chief Financial Officer
Jeffrey Duvall, Director of Budgets and Forecasting
Peter Egan, Director of Operations and Environmental Affairs
Laurie Hunt, Director of Legal Services
Moira Kenney, Assistant HR Manager/Board Administrator

Others Present: Ann Catino, Esq., Halloran & Sage, Ed Spinella, Esq., USA Hauling.

Chairman Stein called the meeting to order at 9:35 a.m. and said a quorum was present.

APPROVAL OF THE REVISED REGULAR JAN. 28, 2016, BOARD MEETING MINUTES

Chairman Stein requested a motion to approve the revised minutes of the Jan. 28, 2016, Board Meeting. Director Eno made the motion which was seconded by Director Hayden.

The motion to approve the minutes as amended was approved by roll call. Chairman Stein, Vice-Chairman Barlow, Director Adams, Director Eno, Director Hayden, Director Nunn, Director Painter and Director Shanley voted yes.

Directors	Aye	Nay	Abstain
Chairman Stein	X		
Vice-Chairman Barlow	X		
John Adams	X		
Ralph Eno	X		
Jim Hayden	X		
Andy Nunn	X		
Bob Painter	X		
Scott Shanley	X		

WELCOME NEW MIRA BOARD MEMBERS

Chairman Stein welcomed Director Painter as a Board member to the MIRA Board. Director Painter had previously served as the Ad-Hoc representative for the CSWS Project.

Chairman Stein also noted that Patricia Widlitz has been appointed to the MIRA Board and although she was currently away on a trip he hoped she would be able to attend the next Board meeting.

APPROVAL OF THE REGULAR FEB. 18, 2016, BOARD MEETING MINUTES

Chairman Stein requested a motion to approve the minutes of the Feb. 18, 2016, Board Meeting. Director Hayden made the motion which was seconded by Director Eno.

The motion to approve the minutes as amended was approved by roll call. Chairman Stein, Vice-Chairman Barlow, Director Adams, Director Eno, Director Hayden, Director Nunn, Director Painter and Director Shanley voted yes.

Directors	Aye	Nay	Abstain
Chairman Stein	X		
Vice-Chairman Barlow	X		
John Adams	X		
Ralph Eno	X		
Jim Hayden	X		
Andy Nunn	X		
Bob Painter	X		
Scott Shanley	X		

RESOLUTION ESTABLISHING A POST PROJECT RESERVE FOR THE SOUTHEAST PROJECT

Chairman Stein requested a motion on the resolution above. Director Shanley made the motion which was seconded by Director Hayden.

WHEREAS, by resolution adopted at its October 22, 2015 meeting, the Materials Innovation and Recycling Authority (MIRA) Board of Directors approved the transfer of flow of funds responsibility for its Southeast Project to the Southeastern Connecticut Regional Resource Recovery Authority (SCRRA) subject to a sequence of events, the development of release of liability documents and required concurrences as outlined in a September 30, 2015 letter attached to such resolution; and

WHEREAS, on November 15, 2015 the Southeast Project's Series A Refunding Bonds dated December 1, 2010 (the "Bonds") matured and were fully paid; and

WHEREAS, on November 30, 2015 the Trustee of the Bonds made an initial distribution of remaining trust funds to MIRA in the amount of \$5,525,339.44 which comprised the Special Capital Reserve Fund established for the Bonds as well as remaining balances in the principal and interest accounts established for payment of Bond debt service; and

WHEREAS, such initial distribution of trust funds to MIRA excluded \$923,140.92 held by the Trustee as of November 15, 2015 in the Operating Surplus Fund established for the Bonds; and

WHEREAS, such distribution of the Operating Surplus Fund was held pending agreement between MIRA and Covanta Southeastern Connecticut Company ("Covanta") as contract operator of the Southeast Project's Resource Recovery Facility "RRF") on a final true up of operating expenses associated with the RRF pursuant to the Service Agreement between MIRA and Covanta, and submission of a joint instruction to the Trustee concerning the distribution of monies held in such fund; and

WHEREAS, by resolution adopted at its November 19, 2015 meeting, the MIRA Board of Directors authorized the President to enter into proposed release of liability documents with SCRRA and Covanta, which release of liability documents were generally limited in scope to MIRA's action of transferring responsibility for Southeast Project flow of funds management to SCRRA, and to transfer such flow of funds responsibilities in accordance with those documents; and

WHEREAS, Effective December 1, 2015 Wheelabrator Technologies Inc. released MIRA from its obligations to deliver and pay for the disposal of ash from the RRF; and

WHEREAS, Effective December 3, 2015 SCRRA acknowledged that MIRA will not be responsible for making any future Payments in Lieu of Taxes (PILOTs) to the Town of Preston; and

WHEREAS, on December 15, 2015 title to the RRF transferred from MIRA to Covanta in accordance with the terms of a certain Facility Lease between MIRA and Covanta and all documents and releases required to effectuate such transfer have been executed and filed; and

WHEREAS, on December 21, 2015 Covanta submitted to MIRA its calculated \$2,221,341.20 true up of operating expenses due under the Service Agreement through

November 30, 2015, which true up value excludes \$6,386,758.58 in additional deferred amounts payable to Covanta from current revenues now under the control of SCRRRA, and which true up MIRA reviewed and submitted to its independent auditor; and
WHEREAS, Effective December 23, 2015 MIRA, SCRRRA and Covanta provided joint instruction to Northeast Utilities Service Company concerning the allocation and distribution of future payments under the Electricity Energy Purchase Agreement concerning the RRF to SCRRRA and Covanta; and

WHEREAS, on January 20, 2016 SCRRRA paid Covanta the sum of \$2,221,341.20 representing the true up of operating expenses under the Service Agreement through November 30, 2015 as calculated by Covanta excluding deferred amounts; and

WHEREAS, On February 23, 2016 MIRA and Covanta submitted a joint instruction to the Trustee, dated February 17, 2016, to distribute to MIRA all remaining funds in the Operating Surplus Fund established for the Bonds, which distribution in the amount of \$923,803.32 was received by MIRA on February 25, 2016; and

WHEREAS, on February 26, 2016 MIRA completed the transfer of its Southeast Project allocated FY 2016 Authority Budget; and

WHEREAS, on February 29, 2016, Covanta confirmed to MIRA that it has also received the cash related to the deferred amounts reported on its November 30, 2015 calculated true up; and

WHEREAS, as of February 29, 2016, MIRA has effectively closed its Southeast Project deposit and lockbox accounts held with Bank of America, transferred all monies held in such accounts to SCRRRA or MIRA's Southeast Project Operating Account and no longer accepts deposits of Southeast Project receipts; and

WHEREAS, MIRA staff have reviewed and considered MIRA's accrued expenses and ongoing liabilities associated with the Southeast Project and have recommended establishment of an Interim Southeast Project Closure Reserve Requirement in the amount of \$1,140,000 which represents the following:

- | | |
|---|------------------|
| • Pollution Liability Insurance Deductible - | \$250,000 |
| • Pollution Liability Insurance Premium (25 Years) - | \$236,000 |
| • Outside Counsel for Ongoing Closeout Activity - | \$300,000 |
| • Administrative Direct Costs (bank / audit) - | \$ 50,000 |
| • Allocated Personnel (post FY 2016) - | \$ 54,000 |
| • Contingency - | \$250,000 |

NOW THEREFORE, be it

RESOLVED: That MIRA's Southeast Project Operating Account held within the State Treasurer's Short Term Investment Fund be renamed to the Southeast Project Closure Reserve; and

FURTHER RESOLVED: That MIRA's Southeast Project Risk Fund held within the State Treasurer's Short Term Investment Fund be closed and all monies held in such account transferred to the Southeast Project Closure Reserve; and

FURTHER RESOLVED: That management is authorized to distribute to SCRRA the interim sum of \$5,691,971.43 representing funds available in the Southeast Project Closure Reserve in excess of the Interim Southeast Project Closure Reserve Requirement; and

FURTHER RESOLVED: That no later than September 15, 2016, management shall consider and recommend any additional distribution of funds to SCRRA based on the circumstances at that time; and

FURTHER RESOLVED: That at any time upon satisfactory conclusion and execution of further amendments and release documents related to the Southeast Project's Bridge and Management Agreement and Service Agreement releasing MIRA from all cost and liability associated with the Southeast Project, preserving MIRA's rights to use excess capacity of the RRF, and preserving MIRA's right to reacquire the RRF on behalf of the State, management shall determine a Final Southeast Project Closure Reserve Requirement and recommend any further distribution of funds to SCRRA.

Mr. Daley said this resolution establishes a post-project reserve for the Southeast Project. He said this is being accomplished by combining the remaining Southeast Project operating accounts and consolidating other funds into the account. Mr. Daley said the balance in the operating account will then be reduced by distributing roughly \$5.7 million to the SCRRA Board.

Mr. Daley said the remaining \$1,140,000 reflects internal discussions within management for items such as insurance, counsel, a contingency, and bank and personnel costs. He said this will be known as an interim reserve requirement as there are some issues which remain outstanding. Mr. Daley said the Finance Committee requested a timeframe be added to the resolution which says regardless of the remaining issues concerning the Covanta service agreement, as of Sept. 15, 2016, the Finance Committee will readdress this issue. Director Shanley said this was added to assure the SCRRA Board the amount will be reviewed.

Mr. Daley said MIRA has received an additional (final) distribution of money from the trustee and a partial release of liability from both SCRRA and Covanta. He said the original release of liability is essentially confined to MIRA's action of transferring the flow of funds from management to SCRRA and is still being worked on to reflect all areas for which MIRA needs a release.

Chairman Stein asked if MIRA held a discussion with SCRRA concerning the amount of funds being retained. Mr. Daley said SCRRA has been made aware at the finance level (which has likely reached the SCRRA management level) of the funds being held in reserve. Mr. Duvall said his counterpart at SCRRA is expecting about \$5.5 million in distributions.

Director Shanley said the Finance Committee also addressed this issue, which is why the time line was added to the resolution. He said the vast majority of the funds are being returned

and MIRA is also stating they will reconsider the retained amount in September. Chairman Stein said he would have suggested an informal agreement prior to this Board resolution.

The motion to approve the minutes as amended was approved by roll call. Chairman Stein, Vice-Chairman Barlow, Director Adams, Director Cruz-Aponte, Director Eno, Director Hayden, Director Nunn, Director Painter and Director Shanley voted yes.

Directors	Aye	Nay	Abstain
Chairman Stein	X		
Vice-Chairman Barlow	X		
John Adams	X		
Marilyn Cruz-Aponte	X		
Ralph Eno	X		
Jim Hayden	X		
Andy Nunn	X		
Bob Painter	X		
Scott Shanley	X		

RESOLUTION REGARDING A LEASE AGREEMENT WITH ALGONQUIN GAS TRANSMISSION, LLC FOR USE OF A PORTION OF MIRA'S WATERBURY LANDFILL PROPERTY LOCATED AT THE CORNER OF HIGHLAND AVENUE AND HIGH VIEW STREET IN WATERBURY, CONNECTICUT

Chairman Stein requested a motion on the resolution above. Vice-Chairman Barlow made the motion which was seconded by Director Eno.

RESOLVED: That the President is authorized to execute a lease agreement with Algonquin Gas Transmission, LLC for use of a portion of MIRA's Waterbury Landfill Property located at the corner of Highland Avenue and Highview Street in Waterbury, CT, substantially as presented and discussed in this meeting.

Mr. Kirk said there is property at the Waterbury Landfill which was formerly associated with the Bridgeport Project. He said Algonquin Gas would like to use roughly 1.2 acres of MIRA property as lay down area. Mr. Kirk said this is a fairly standard process, the payment comes with assurances to leave MIRA property unaffected after use is complete, and Algonquin plans to use the land for a twelve month agreement with a possible extension of four individual options for a total 16 month use of the site.

The motion previously made and seconded was approved unanimously by roll call. Chairman Stein, Vice-Chairman Barlow, Director Adams, Director Cruz-Aponte, Director Eno, Director Hayden, Director Nunn, Director Painter and Director Shanley voted yes.

Directors	Aye	Nay	Abstain
Chairman Stein	X		
Vice-Chairman Barlow	X		
John Adams	X		
Marilynn Cruz-Aponte	X		
Ralph Eno	X		
Jim Hayden	X		
Andy Nunn	X		
Bob Painter	X		
Scott Shanley	X		

MOTION TO ADD AN ITEM TO THE AGENDA REGARDING THE STATE'S COMPREHENSIVE FINANCIAL TRANSPARENCY WEBSITE

Chairman Stein requested a motion to add an item to the agenda regarding the State's comprehensive financial transparency website. Vice-Chairman Barlow made the motion which was seconded by Director Eno.

The motion previously made and seconded was approved unanimously by roll call. Chairman Stein, Vice-Chairman Barlow, Director Adams, Director Cruz-Aponte, Director Eno, Director Hayden, Director Nunn, Director Painter and Director Shanley voted yes.

Directors	Aye	Nay	Abstain
Chairman Stein	X		
Vice-Chairman Barlow	X		
John Adams	X		
Marilynn Cruz-Aponte	X		
Ralph Eno	X		
Jim Hayden	X		
Andy Nunn	X		
Bob Painter	X		
Scott Shanley	X		

RESOLUTION REGARDING THE STATE'S COMPREHENSIVE FINANCIAL TRANSPARENCY WEBSITE

Chairman Stein requested a motion regarding the State's comprehensive financial transparency website. Vice-Chairman Barlow made the motion which was seconded by Director Eno.

RESOLVED: That the President is authorized to enter into a Memorandum of Understanding with the Office of the State Comptroller concerning the Authority's provision of checkbook level financial data for the state's comprehensive financial transparency website substantially in the form as presented and discussed at this meeting.

Mr. Kirk said State of Connecticut Comptroller Lembo approached MIRA and requested provision of checkbook level financial data for the state's comprehensive financial data for the state's comprehensive financial transparency website. He said before MIRA has provided the information the State provided a memorandum of understanding which requires MIRA's Board approval.

The motion previously made and seconded was approved unanimously by roll call.

Chairman Stein, Vice-Chairman Barlow, Director Adams, Director Cruz-Aponte, Director Eno, Director Hayden, Director Nunn, Director Painter and Director Shanley voted yes.

Directors	Aye	Nay	Abstain
Chairman Stein	X		
Vice-Chairman Barlow	X		
John Adams	X		
Marilynn Cruz-Aponte	X		
Ralph Eno	X		
Jim Hayden	X		
Andy Nunn	X		
Bob Painter	X		
Scott Shanley	X		

DISCUSSION CONCERNING CT DEEP RFS

Director Painter suggested holding an informational meeting to update the Board on the performance of new environmental technology for waste disposal. The Board agreed a discussion on the impact on the various technologies which are being proposed should be held. Mr. Kirk said management has a disclosure form it would like the Board to sign. He said the proposals are currently being reviewed at the CT DEEP concerning the RFP. They discussed the ramifications of the upcoming RFS with the CT DEEP.

PRESIDENT'S REPORT

Mr. Kirk said MIRA intends to exercise its third and final year option with its General Counsel, Halloran & Sage. He said the Policies and Procurement Committee discussed this at length and plans on evaluating new three year agreements this coming year.

Mr. Kirk said all facilities operated without any environmental or public health and safety issues throughout the reporting period. He said the plant continues to run very well and has exceeded expectations for the month of January however power prices continue to be very low and in addition metal commodity prices have been very low which resulted in revenues below budget. Mr. Kirk said less spot waste was taken in than was budgeted for, which was offset by more than expected contract waste at a higher price to offset that deficit.

Mr. Kirk said the expense side of the budget was good for December and the data in the supplemental package shows the \$1.8 million adjustment to the budget. He said spot waste

continues to be generally available and the plant is taking in more waste than prior years. He said contract waste continues to be strong however recycling waste is 14% below budget despite the fact that town waste and private independent commercial revenue is coming in strong. Mr. Kirk said that is because commodities prices for metals and plastic are very low and therefore has an impact on revenues.

Mr. Kirk said MIRA continues to support the CT DEEP RFP process and the relationship continues to be cooperative and positive.

Mr. Kirk said with the expiration of the Mid-Connecticut project three years ago the CSWS project lost about twenty town customers and with that the need for additional trash was anticipated by management. He said the bulk of that fuel is supplied by contracts with private haulers which have access to the tonnage of towns which are no longer municipal contractors. Mr. Kirk said even with that private waste MIRA anticipated a need for spot waste. He said spot waste and capacity is seasonably variable and volatile and is a quickly changing landscape.

Mr. Kirk said Mr. Daley raised concerns regarding the process by which MIRA obtains spot waste, a topic which was discussed at the last Policies and Procurement Committee. He said a procedure was developed roughly a year ago in response to Mr. Daley's concerns to manage on a more formal basis the sale of this capacity, as prior to last year it was done as an on needed basis.

Mr. Kirk said the policy in place now meets MIRA's needs for flexibility. He said the process was reviewed by legal, however there were solicitations when this documented and a formal process was not in place. Mr. Kirk explained the Policies & Procurement Committee has determined it is in MIRA's best interest to review that period, ensure everything was done properly and make sure there were no inconsistencies or problems and investigate as to potential improvements to the present process.

Mr. Kirk said management would engage a consultant to review the solicitation process and confirm proper recruitment and solicitation of customers.

Director Cruz-Aponte asked why an audit was needed after standard operating procedures were developed. Mr. Kirk said although corrected from a CFO standpoint Mr. Daley feels that any issue which may have occurred in the past should be identified and confirmed either way. The Board discussed the process of undertaking an audit as well as those potential costs.

Mr. Daley said the concerns which brought the suggestion of undertaking a consultant for review are based on issues with internal controls. He said he supports the review but suggests not using an engineering consultant but more of an audit function. Chairman Stein suggested that management develop the scope for a consultant and bring that scope back to the Policies and Procurement Committee for review.

EXECUTIVE SESSION

Chairman Stein requested a motion to enter into Executive Session to discuss pending litigation. The motion was made by Director Adams and seconded by Director Shanley and was approved unanimously.

Chairman Stein asked the following people to join the Directors in the Executive Session:

Tom Kirk
Mark Daley
Peter Egan
Laurie Hunt

The motion was approved unanimously by roll call. Chairman Stein, Vice-Chairman Barlow, Director Adams, Director Cruz-Aponte, Director Eno, Director Hayden, Director Painter, and Director Shanley voted yes.

Directors	Aye	Nay	Abstain
Chairman Stein	X		
Vice-Chairman Barlow	X		
John Adams	X		
Marilynn Cruz-Aponte	X		
Ralph Eno	X		
Jim Hayden	X		
Andy Nunn	X		
Bob Painter	X		
Scott Shanley	X		

The Executive Session began at 10:43 a.m. and concluded at 11:35 a.m. Chairman Stein noted that no votes were taken in Executive Session.

The meeting was reconvened at 11:35 a.m. The door was opened, and the Board Secretary and all members of the public were invited back in for the continuation of public session.

ADJOURNMENT

Chairman Stein requested a motion to adjourn the meeting. The motion to adjourn was made by Director Shanley seconded by Director Eno and was approved unanimously

The motion previously made and seconded was approved unanimously by roll call. Chairman Stein, Vice-Chairman Barlow, Director Adams, Director Eno, Director Hayden, and Director Painter voted yes.

Directors	Aye	Nay	Abstain
Chairman Stein	X		
Vice-Chairman Barlow	X		
John Adams	X		
Ralph Eno	X		
Jim Hayden	X		
Bob Painter	X		
Scott Shanley	X		

There being no other business to discuss, the meeting adjourned at 11:35 p.m.

Respectfully Submitted,



Moira Kenney
Assistant HR Manager/Board Administrator

TAB 2

BOARD RESOLUTION REGARDING ADDITIONAL PROJECTED LEGAL EXPENDITURES

WHEREAS, MIRA obtained Board authorization to pay FY '16 projected legal fees and expenses from appropriate budgets and reserves in June/July, 2015; and

WHEREAS, MIRA expects to incur greater than authorized legal costs for these services; and

WHEREAS, MIRA now seeks Board authorization to expend funds from one of its Board-designated reserves to pay these additional legal costs;

NOW THEREFORE, it is

RESOLVED: That the following additional amounts be authorized for projected legal fees and costs to be incurred during fiscal year 2016:

Firm:

Amount:

Cohn Birnbaum & Shea

\$50,000

FURTHER RESOLVED: That the President be authorized to expend up to \$50,000 for such additional legal fees and costs from the Mid-Connecticut Post Project Closure Reserve.

MATERIALS INNOVATION AND RECYCLING AUTHORITY
Request regarding Authorization for Payment of Projected Additional Legal Expenses

April 28, 2016

Executive Summary

This is to request Board authorization for payment of additional projected fiscal '16 legal expenses.

Discussion:

We are seeking Board approval to incur additional services from the law firm representing MIRA in the environmental remediation of MIRA's South Meadows property, and to use funds from the Mid-Connecticut Post Project Closure Reserve to pay for such services.