



Dissolution Authority

300 Maxim Road, Hartford, Connecticut 06114

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MEMORANDUM

TO: CSWS Transition Committee
FROM: Carl Fortuna, Committee Chairperson
DATE: October 24, 2023
RE: Notice of Meeting

There will be a meeting of the CSWS Transition Committee of the MIRA Dissolution Authority Board of Directors on *Thursday, November 2, 2023 at 11:00 a.m.* *Members of the public may attend the meeting in person in the Board Room at 300 Maxim Road Hartford CT 06114 or telephonically by calling (929) 205-6099, entering Meeting ID 834 7274 9600 and then entering the Passcode 127050 when prompted. (NOTE - there is very limited physical space in the Board Room - consequently, virtual public attendance is encouraged).* The meeting is scheduled to conclude at 12:00 p.m. The purpose of this meeting will be:

1. Call to order; Chair's Welcome
2. Public Comment (3 minutes per speaker).
3. Review and approve the Minutes of the October 11, 2023 meeting (Attachment 1)
4. Additional discussion of Threshold Issues for the Transfer of CSWS Operations (Attachment 2) Including:
 - Update on DEEP Grant Process
 - Identification of Lead Parties
 - Timing and Structure of Transition of CSWS Transfer Stations
5. Next Steps

cc: Bert Hunter
Mark Daley
Tom Gaffey
Mayor Elinor Carbone (City of Torrington)
Donald S. Stein (First Selectman, Barkhamsted)
Robert Phillips (NW COG)
Todd Arcelaschi (RRDD1)
Brian Bartram (Salisbury/Sharon Transfer Station)

CSWS TRANSITION COMMITTEE OF THE MIRA DISSOLUTION AUTHORITY

MINUTES OF OCTOBER 11, 2023 MEETING

ATTACHMENT 1

A Special Meeting of the CSWS Transition Committee of the MIRA Dissolution Authority Board of Directors was held in person and via Zoom on Wednesday, October 11, 2023. Present in person or via audio or video conferencing were:

Appointed Directors:

Committee Chairman Carl Fortuna
Board Chairman Bert Hunter
Noel Petra (representing DAS Commissioner) via Zoom
Joseph DeNicola
William Beccaro

Present from MIRA Dissolution Authority (“MDA”):

Mark Daley, President & CFO
Tom Gaffey, Director of Recycling and Enforcement
Cheryl Kaminsky, Comptroller via Zoom
Roger Guzowski, Supply Chain Manager
Dave Bodendorf, Manager of Engineering, Construction and Power Assets

Others Present:

Ann Catino, Halloran & Sage
Don Stein, First Selectman of Barkhamsted
Robert Phillips, Executive Director of the Northwest Hills COG
Todd Arcelaschi, Administrator of RRDD1
Brian Bartram, Manager of the Salisbury/Sharon Transfer Station

The meeting was recorded via Zoom conferencing and is posted on the Authority’s website at <https://www.ctmira.org/mira-dissolution-authority-csws-transition-committee>.

1. Call to Order, Chair’s Welcome, Roll Call & Confirmation of Quorum, Agenda 1

Chairman Fortuna called the meeting officially to order at 1:01 p.m. and asked Mr. Gaffey to take roll call of the Directors present. It was determined that five Directors were present, which represents a quorum.

2. Request for Public Comment, Agenda Item 2

Chairman Fortuna asked if there was any member of the public who wished to comment. No member of the public requested to comment.

3. Review and Discuss Threshold Issues for the Transfer of CSWS Operations - Agenda Item 3

Mr. Daley stated that he and Mr. Gaffey would share the presentation which is in the meeting package as Attachment I. Mr. Daley reviewed the key dates and provisions of P.A. 23-170, including the obligation of the Authority to continue to operate the Essex and Torrington transfer stations until the DEEP Commissioner determines that acceptable alternatives are available and the transition mechanism to other entities is completed. Mr. Daley stated that there has been an acknowledgement that some of the dates in P.A. 23-170 including the dates when the Department of Administrative Services becomes the Authority's successor and when the Authority terminates need to be corrected. Mr. Daley explained that all of the municipal services agreements with the towns and all Authority operating contracts at both the Essex and Torrington transfer station expire on June 30, 2027.

Mr. Daley reminded Directors that at the initial Board of Directors meeting we stated the preference to transfer the Authority transfer stations to municipal or regional authorities for the purpose of retaining the ability to flow control the waste and recycling to the facilities. Board Chairman Hunter pointed out that there may be meeting attendees who are not familiar with flow control. Mr. Daley explained that the concept of flow control provides a government's ability to direct waste haulers to a designated facility that is publicly controlled. Chairman Fortuna pointed out that while the Authority owns the Torrington transfer station, the Town of Essex owns the land where the Essex transfer station is located

Mr. Gaffey described the DEEP grant application process, review criteria, eligible expenses and current status to assist CT municipalities or regional waste authorities with funding to form new or expand existing regional waste authorities. Mr. Gaffey stated that the Essex area towns applied for the grant through their council of governments (COG) and are awaiting DEEP's decision. Mr. Gaffey said that the Torrington towns had not applied for the grant.

Mr. Daley stated that despite applying for the DEEP grant, he didn't want to leave the impression that the Essex communities were much further along in forming a regional waste authority than the Torrington communities. Chairman Fortuna acknowledged that just because the COG applied for the grant does not mean that there is a meeting of the minds amongst the Essex towns in forming a regional authority. Chairman Fortuna added that there is very little hope that the manner in which garbage is handled in the Essex communities would change during Fiscal Year 2025.

Mr. Gaffey explained that the Authority is attempting to identify a lead entity for the Torrington area towns. First Selectman Don Stein recommended that the Authority meet with both the Mayor of Torrington and the First Selectman of Harwinton to gauge their interest.

Director DeNicola commented that DEEP has more qualified applicants than they have funding for and they are exploring the idea that qualified applicants would group together for technical and legal analysis and DEEP would pool existing resources to assist those towns.

Mr. Daley reviewed the municipalities and associated tons of MSW and recycling delivered to the Essex and Torrington transfer stations, current contract operators and disposal sites. At Chairman Fortuna's request for the benefit of the new Directors, Mr. Daley also reviewed the process that MIRA followed in the prior development effort that was ultimately determined unfeasible and the managed wind down of the resources recovery and recycling facilities located in Hartford and the Watertown transfer station which are all now closed.

Board Chairman Hunter observed that actual tons delivered by town compared to budget reveals a 15% gap. Chairman Hunter pointed out that because the Covanta disposal agreement has a put-or-pay requirement which obligates the Authority to makeup that tonnage shortfall with spot waste or be subject to financial penalties. Chairman Hunter asked Mr. Gaffey if haulers were taking the tons to other sites that were economically preferable to the Authority transfer stations. Mr. Gaffey responded that during the past year the Authority enforcement team has extensive, documented evidence of a few haulers that are flagrant violators of their hauler agreements and the municipal services agreements which both require all commercial and residential waste generated in the MIRA towns to be delivered to the Authority transfer stations. Mr. Gaffey said that this activity is particularly troublesome in the Essex region and that he, Mr. Daley and Counsel Ann Catino have met with town attorneys representing two towns experiencing significant diversion of their waste and will be following-up soon with the First Selectmen of those two municipalities. Discussion ensued regarding economic and underlying reasons why some haulers divert waste.

Mr. Daley explained the Authority operating and disposal contracts in detail and MDA's administrative and operational support activities.

Mr. Gaffey reviewed major operating issues for Regional Waste Authorities to consider including scale operations, flow control enforcement, operation and maintenance contract administration and oversight, DEEP reporting and security of facilities. Director Denicola asked if MIRA was permitted to allow waste to be delivered to the transfer stations from non-MIRA towns. Mr. Gaffey responded that MIRA may bring in waste from non-MIRA towns provided that total tons received comport with DEEP permit limits.

4. Next Steps - Agenda Item 4

Mr. Daley discussed the major next steps for the committee to consider including identifying lead parties to work with on the transfer of operations. Mr. Daley said that

one of the big next steps is if DEEP could get back to the committee on how the agency is trying to accommodate more communities under its grant process and how the Torrington communities could take advantage of resources that may be available to organize as a region.

Mr. Daley added that for the next meeting the committee may want to look at how the transfer mechanism may work including assignments of contracts and timing. He said that the key next step is to understand who we will be talking to as lead entities.

Chairman Fortuna responded that he agreed with that approach and that he and Senator Needleman will work with the COG in the Essex area to establish the lead entity there.

Director Beccaro stated that from a timing point of view, all legislators and DEEP agree that there is a disconnect in the transition dates in Public Act 23-170 and that there is mutual agreement to push back the date when MDA's responsibilities transition to DAS. Chairman Fortuna said that he appreciated Director Beccaro's comments since there is a short timeframe not only to June of 2027 but to attempt to have regional entities up and running prior to that is a very short timeframe.

Mr. Stein and Mr. Phillips both stated that at the Northwest Hills COG this subject has not really been discussed amongst the towns in that region but the topic could come up at their meeting on October 12.

Board Chairman Hunter commented that one thing is clear and that is on July 1, 2027 all Authority activities end. Chairman Hunter posed the question of what the compelling reasons to move that date up are. Chairman Hunter observed that tip fees will increase and the question is what will motivate town leaders to move that end date up.

Committee Chairman Fortuna responded that the towns in his area are not sitting back and waiting. He said the towns will have to test the market and that will take some time. Chairman Fortuna sees the major enticement for the towns to act is the July 1, 2027 date and does not think that projected tip fee increases don't look that bad considering Senator Needleman belief that the going rate to dispose garbage is in the \$150 per ton range. Chairman Fortuna said that towns will need assistance with RFP development from MIRA and he also observed that there is not adequate grant funds available to get all of the towns organized into regional waste authorities.

Mr. Stein agreed with Chairman Fortuna that nothing is going to accelerate the process except for the deadline of 2027 since there are legal and economic challenges. Mr. Stein pointed out that towns in the northwest corner will be shipping waste out of state long-term unless there is a solution to increasing in-state disposal capacity.

Mr. Bartram commented that DEEP's grant deadline last March was well before the bill disbanding MIRA and creating the Dissolution Authority had passed and now there is impetus for the towns to act. He also stated that roughly half of the towns in their COG are not under contract with MIRA. Mr. Bartram also stated the need for in-state disposal capacity.

Chairman Fortuna acknowledged the point made regarding developing in-state capacity is a very important issue and asked for any further comment. Mr. Daley reiterated the importance for the next meeting of having a clear understanding of how the grant process will evolve.

There being no further discussion, Chairman Fortuna adjourned the meeting at 2:18 PM.

MIRA DISSOLUTION AUTHORITY

CSWS TRANSITION COMMITTEE MEETING – NOVEMBER 2, 2023

ATTACHMENT 2

Threshold Issues for the Transfer of CSWS Operations

- ▶ Recap of October 11, 2023 Initial Meeting
- ▶ Update on DEEP Grant Process
- ▶ Update on Lead Entities
- ▶ Timing and Structure of Transition

Recap of Initial October 11, 2023 Meeting

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- Statutory Requirement (Public Act 23-170):
 - Section 9 (a) (3) - the Authority shall continue to operate the authority's transfer stations until acceptable alternatives, operated by entities other than the authority, become available, as determined by the Commissioner of Energy and Environmental Protection.
- Type and Status of Available Entities
- Resources (Grants) to Establish Entities:
 - Grant process closed before MIRA terminated by PA 23-170
- Nature of Operations to be Transferred:
 - Torrington budget / actual operations, primary contract and administrative terms
 - Essex budget / actual operations, primary contract and administrative terms
 - Major operating issues for regions to consider
- Preparation and Assistance Needed to Assume Operations:
 - Transfer mechanisms & contracts
 - Economic and governance / administrative models.
 - Timing and Milestones

Update on DEEP Grant Process

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- Discussion Concerning Status of Awards
- Discussion Concerning Status of Alternate Availability of Grant Resources
- Background Notes:
- \$1.5 million available funding for technical assistance for CT municipalities and regions through Sustainable Materials Management Grant Program Pursuant to Public Act, Special Session, June 2021, No.21-2, Sec. 308.
- DEEP requested proposals seeking grant funds to help municipalities and regional waste authorities evaluate interest and identify governance to form new or expand existing regional waste authorities (RWAs).
- Applications were due March 31, 2023. Preference given to coalitions of towns or RWA's.
- Essex communities applied through COG
- Torrington Communities did not apply
- Director DeNicola (DEEP Designee on Committee) tracking

Update on Lead Entities

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- Essex communities are discussing designating a lead entity.
- The Authority is reaching out to identify a lead entity for Torrington.
 - Elinor C. Carbone (Mayor – City of Torrington)
 - ✦ Raymond E. Drew - Public Works Director
 - ✦ Linda Orr - MSW/ Recycling Coordinator
 - Donald S. Stein (First Selectman - Town of Barkhamsted)
 - Robert A Phillips, AICP (Executive Director - Northwest Hills Council of Governments)
 - Brian D. Bartram (Manager - Salisbury/Sharon Transfer Station)
 - Todd Arcelaschi (Administrator - Regional Refuse Disposal District #1)
- Key Questions:
 - Have Torrington area communities applied under the DEEP grant process?
 - May DEEP reopen the grant process?
 - How can the Authority help organize a lead entity for Torrington area communities?
 - What does assuming control of Essex and Torrington Transfer Stations Entail?

Timing and Structure of Transition

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- **Challenging MIRA Dissolution Authority Timeline to Consider:**
 - The Authority was created effective July 1, 2023 to succeed MIRA
 - The Authority's statutes are repealed and DAS becomes the Authority's successor July 1, 2025
 - The Authority is terminated July 1, 2026
 - All municipal service agreements and operating contracts terminate June 30, 2027
- **Challenging Regional Authority Timeline to Consider:**
 - Create and organize Regional Authority
 - Negotiate, develop and execute assignment / transfer documents
 - Consistent with acceptable governance / economic model
 - Onboard staff
 - Prepare for alternate waste service to be in place by July 1, 2027
- **“What Ifs”:**
 - Legislature revises MIRA Dissolution Authority timeline
 - Transfer not effectuated before MIRA Dissolution Authority terminates

Timing and Structure of Transition

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- Key contracts associated with Torrington operation:
 - Host Community Agreement (Torrington)
 - Transfer Station O&M Agreement (Enviro)
 - MSW Disposal Agreement (Part of Enviro O&M)
 - Recycling Transfer Agreement (MRR)
 - Amended Municipal Service Agreements (Municipalities)
- Contracts may be terminated, assigned, scope changed with notice and/or consent
- Conveyance of transfer station
- Key exposures in restructuring:
 - Enviro may request certain termination payments if warranted by a decline in waste deliveries
 - Sustaining waste deliveries relies on Municipal Service Agreements remaining in place
 - Municipal Service Agreements remain in place by not exceeding opt out provision
 - Enviro contract may also be terminated annually by MIRA if services not warranted by demand
- A negotiated transfer of these contracts to a third party is optimized when:
 - The Authority's obligations under the key contracts are satisfied at a cost less than its projected use of reserve requirement.
- See Appendix A for specific contract terms.

Timing and Structure of Transition

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- Key contracts associated with Essex operation:
 - Transfer Station Lease (Essex)
 - Host Community Agreement (Essex)
 - Transfer Station O&M Agreement (CWPM)
 - MSW Disposal Agreement (Covanta)
 - Recycling Transfer Agreement (MRR)
 - Amended Municipal Service Agreements (Municipalities)
- Contracts may be terminated, assigned, scope changed with notice and/or consent
- Transfer station reverts to Essex
- Key exposures in restructuring:
 - MIRA is committed to deliver 40,000 tons of MSW annually to Covanta or pay a penalty
 - Fulfilling this commitment relies on Municipal Service Agreements remaining in place
 - Municipal Service Agreements remain in place by not exceeding opt out provision
 - CWPM scope may be changed or demobilized by negotiation
- A negotiated transfer of these contracts to a third party is optimized when:
 - The Authority's obligations under the key contracts are satisfied at a cost less than its projected use of reserve.
- See Appendix A for specific contract terms.

Appendix A

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Specific Contract Terms

Specific Contract Terms: Torrington

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- **Host Community Agreement Terms**

- Effective July 1, 2007 through June 30, 2027.
- Pays Torrington \$0.50 / ton of MSW delivered to the Torrington Transfer Station. Escalated annually by the CPI (currently \$0.70 / ton)
- May be renegotiated if permitted deliveries increase or type of deliveries change.
- May be terminated if the transfer station is closed, inoperable, not used as a transfer station, ownership interest is transferred or the Authority no longer operates the transfer station.
- May be assigned to a third party with Torrington's consent

- **Transfer Station O&M Agreement Terms**

- Provides for transfer station O&M, MSW and recycling transportation and MSW disposal.
- Excludes scales, roof, tip floor and surveillance system maintenance.
- Scope subject to change at any time with corresponding fee adjustment.
- Transfer station subject to changes, modification or additions which may alter, add or reduce service (facilitated by Authority request and Contractor proposal).
- Contractor permitted to use excess capacity for non participating waste
- Effective May 4, 2022 through June 30, 2027.
- Subject to termination by Authority each July 1st if Authority determines services are not warranted by demand at its sole discretion . Three months prior written notice required. Payment of unrecovered investment required.
- Subject to partial termination payments each July 1st if additional municipal opt outs occur and warrant return of contractor equipment.
- May be assigned by Authority at its discretion to another entity or successor who is overseeing the CSWS

Specific Contract Terms: Essex

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- **Transfer Station Lease Terms:**
 - Dates to May 1987 & was amended and restated November 2012 to be effective through June 30, 2027.
 - Pays Essex \$15,000 per year effective July 1, 2012 which does not escalate.
 - May be terminated by Authority for any reason, at any time with 12 months notice.
 - Automatically assigns to a successor entity if created by the legislature.
 - May be assigned to a third party with Essex's consent.
- **Host Community Agreement Terms:**
 - Effective July 1, 2007 through June 30, 2027.
 - Pays Essex \$0.50 / ton of MSW delivered to the Essex Transfer Station. Escalates annually by the CPI.
 - Currently pays \$0.70 / ton
 - May be renegotiated if permitted deliveries increase or type of deliveries change.
 - May be terminated if the transfer station is closed, inoperable, not used as a transfer station, ownership interest is transferred or Authority no longer operates the transfer station.
 - May be assigned to a third party with Essex's consent.

Specific Contract Terms: Essex

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- **Transfer Station O&M Agreement Terms:**
 - Provides for transfer station O&M, MSW & recycling transportation.
 - Excludes scales, roof, tip floor, surveillance system maintenance, storm water testing and other items.
 - Authority is the Permittee and is responsible for all DEEP permits and operating plans (excludes facility operator).
 - Scope subject to change at any time at Authority's request with corresponding fee adjustment.
 - Transfer station subject to changes, modification or additions which may alter, add or reduce service (facilitated by Authority request and Contractor proposal).
 - Term is July 1, 2022 through June 30, 2027.
 - May be assigned by Authority at its discretion to another entity or successor who is overseeing the CSWS.
 - Agreement not subject to termination absent an event of default or Uncontrollable Circumstance. Contractor paid reasonable demobilization (unless Contractor defaulted).
- **Covanta Disposal Agreement Terms:**
 - Effective July 1, 2022 through June 30, 2027.
 - Provides only for disposal of MSW.
 - Authority obligated to deliver 40,000 tons of MSW annually to Preston (Participating or Non Participating) or pay \$50 / ton on shortfall (after 2 month transition).
 - Initial delivery fee of \$95 / ton to Preston or Bristol, \$90 / ton to SEMASS facility (\$10 / ton monthly shortfall with annual true up). Additional \$10 / ton if deliveries exceed 3,400 tons / month. Fees escalate at 4% annually and with change in law.
 - Covanta bills Authority from weight tickets it issues at Preston or backup facility.
 - Exempt from sales tax.
 - Obligations suspended for Uncontrollable Circumstance.
 - May be assigned to a third party with Covanta's consent.

Specific Contract Terms

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- Common to Torrington and Essex
 - Municipal Service Agreements
 - Recycling Service Agreement
- Administrative and Operational Support from the Authority:
 - Budgeting, accounting and financial reporting
 - Scales, enforcement and contract administration
 - DEEP weekly recycling inspections, quarterly tonnage reporting, annual permit compliance audit