

Life After NESWC Committee
Minutes of Meeting
October 13, 2004
Town Hall Room 204

Members present: Bob Johnson (chair), Ann Chang, David Stone, John Murray (town staff), Pat Clifford, Carol Holley

Members absent: Peter Ashton

Guests: Garry McCarthy, Sally Edwards

The meeting opened at approximately 7:10 p.m.

The minutes of August 23 were reviewed. Ms Chang moved to accept the minutes as presented, Ms Clifford seconded, and all voted in favor.

The RFP contracts for solid waste and recycling were discussed. Mr. Johnson noted that they seemed to be the “far end” of the RFP process, and was concerned that a massive new structure would be required to implement them. Mr. Stone felt otherwise, observing that the Town would, in essence, be a middleman. Mr. Murray noted that the Town would be giving a monopoly to those properties in town as this has to be a town-wide service. Mr. Stone noted that the package could be offered at a price, and people who want it could have it, but Mr. Murray observed that the RFP’s were not written that way.

Mr. Stone felt that the proposed arrangement took competition out, leaving only one company, and they can’t be fired unless they upset so many people they lose the contract. If the transfer station were closed the town has to take care of everybody. Maybe 40% of the households would be signing on. You don’t need the whole town involved, but you can’t have 5 houses.

Mr. Murray noted that the RFP says ALL 1, 2, and 3 family dwellings would be part of the contract. Mr. Stone noted that a monopoly means that the town provides service that is subcontracted to somebody who might get replaced next bidding cycle, but they will have a level of customer service and attention to detail that most monopolies offer, which isn’t high. People who opt out of town service would, in essence, have to pay twice. Mr. Murray observed that Concord offers subpar service through the town contractor. Mr. Stone felt that Concord has a certain segment of the market; they took a low-cost provider and then prohibited them from doing private service that would be the same as the town contract. In Concord you can’t sign up with WMI privately any more.

Ms Clifford observed that people somehow feel that Concord’s curbside recycling effort is more sincere and thorough, and they don’t believe that the private haulers are sincere, whether this is real or imagined.

Mr. Johnson observed that the Acton RFP contracts are written exclusively; they are a monopoly, which lays the burden upon the Town – how do you administrate? It looks like a new tax. Mr. Stone noted that you could pay a subscriber fee or pay out of the tax rate. Mr. Murray stated that the Town would determine the fee. The contractor will be paid \$s/household, or whatever. Whether the town puts that on the taxes is a town decision. We structured the contract so that the town pays some portion and the contractor will have to bill their customers for the rest. Mr. Murray noted that the town could also close the transfer station and do nothing, which is full competition, or have a full monopoly.

Ms Chang asked where the RFP that keeps the transfer station open was. Mr. Murray replied that no RFP necessarily keeps the transfer station open.

There was a question as to whether the documents before the committee needed to be approved for release at this meeting. Mr. Murray asked what service the committee would want if there were no monopoly. Mr. Johnson noted the Concord system as a possible alternative, which Mr. Murray characterized as offering less service – are you going to have leaf collection and large containers? Concord created a new market, which is a lower level of service.

Mr. Stone observed that if this went through with the overhead structure, etc., it might illustrate that it's a bad idea. The contract does have to be big enough to have some economy of scale, or otherwise the Town is just getting between the contractor and the private haulers.

Ms Clifford noted that the other thing to be aware of with the Concord model is that they get rid of a lot of problems with large item recycling with their town-wide recycling. They have agricultural waste at a transfer station and they have a paint recycling center. Concord has smoothed out all these to support 30 gallon barrel service.

Mr. Murray noted that with Acton's staff and budget shortfalls – we are not going to have personnel to maintain a service. There are multiple ways to do this. Getting the RFPs out will gather responses.

Ms Chang noted that the purpose of the RFPs was to gather data, which is why the committee should get them out even though there might be parts committee members don't like. Mr. Murray stated that the RFPs kept control of the pricing because seniors and nonseniors need to be different. Ann observed that there is no doubt in her mind that there will be lots of complaints anyway. Mr. Stone noted that people who like taking their own trash to the transfer station will complain whatever the committee does. Mr. Murray noted that staff tried to structure the contract as full service but mandating it is another matter.

Mr. Murray felt that the town could still do composting, but people would need to take their material up to the composting facility on Quarry Road. Mr. Murray related that CDM believes that the contract in the RFP follows the Lexington model, and the pricing

is negotiable. This is the full service contract with curbside pickup. The Town could provide compost bins for private composting also. The town can do things beyond the contract. Ms Clifford felt that the composting service would be counter to the idea of staff limitations. She observed that there is a public policy attitude in Concord – there is a Concord mindset – and there are people who live in Acton that like it. Chang will be hard no matter what is done. Mr. Johnson reminded that Concord doesn't have a monopoly.

Mr. Stone expressed comfort with doing price discovery for a town-wide contractor, noting it's worthwhile; he felt this RFP is acceptable for purposes of information gathering. Mr. Stone felt that the committee would get back 5-9 sets of answers, then then we will discover questions which we should have asked, and then we might need to try some more. Ms Chang observed – or, the committee gets one response we all really like. Mr. Stone noted that at least it's being specified at a level of service that is being replaced.

Ms Chang observed that the committee has to gather this information. From the beginning, it's said that recycling is the issue that came through on all the surveys as something we needed to be providing. Mr. Johnson went through the requirements for the RFPs and noted that these contracts only address a few issues. There are 13 possible scenarios originally outlined in the post-NESWC process, and there are 2 RFPs that encompass one of the 13 possibilities.

Mr. Murray went to the map and pointed out what would happen if the transfer station was being used along with a recreation area on the landfill site. The Town needs access from Rte. 2 for dumping snow. Lot 3 on the plan, about 3.67 acres, is between the landfill (lot 2) and the woods. This was obtained from the state and has to be a public use. The transfer station operation would be on lot 4, which is about 2.34 acres, but the operator would have to cap the landfill. The road to the transfer station would have to be upgraded for larger trucks. There's about 1.75 acres of land set aside for transfer station access. For public reuse, lot 3 is described in the RFP as a public parking lot and snow dump for town purposes.

In the case of commercial redevelopment, Mr. Murray continued, the transfer station would be kept as a highway department operation. There are about 17.75 acres that could be developed. There are roadway, parking, and slope issues. The landfill will need to be vented. This RFP included multiple kinds of redevelopment. Pursuant to conversations CDM had with developers, this RFP is written up for purchase or lease of the land. This reuse would generate revenue.

Ms Chang wanted to make money off the landfill property – if the town is going to allow people to go to the transfer station, we have to make money on it.

Ms Clifford noted the zoning issues. A large nursery operation doesn't require rezoning. Mr. Murray noted that one option was to have the transfer station operator or curbside contractor charge fees, which means that there needs to be a by-law change in terms of

trash pickup. There will be sets of warrant articles for just about each option that people will have to agree to.

Ms Chang believed that there would have to be a separate NESWC town meeting. She felt that this issue needed to be separated out, and didn't think the committee would be ready by April.

Mr. Murray stated that there are about 160 cubic yards of space available for CDW waste dumping, unless the landfill is expanded above the tree line, so that dumping won't pay for the capping. Ms Holley made note of state laws and laws of physics that might govern landfill height, while Ms Chang invoked law of common sense. Mr. Murray related that CDM has been asked to determine capping costs. Ms Chang asked about reopening the landfill and Mr. Stone noted that limited amount of space.

Mr. Johnson asked about the current cap, and Mr. Murray stated that the town has never received 100% approval from the State although it's shown as capped on the DEP website. It doesn't meet current standards. Mr. Murray didn't believe it was capped to 1988 standards. Mr. Murray stated that CDM's initial estimate for capping was about \$2 million. Mr. Stone thought the cap might be free if enough value were generated from the site for somebody else.

Mr. Murray stated that the RFP gave two years for C&D disposal, and 2 years to finish the grading and the last year will be building fields, for a total of 5 years for recreation all use construction period. This would involve unprocessed C&D waste, not the processed C&D to be used as a cap. From then the transfer station is turned over the public sees no use for 5 years. The town would not be take the field over until it's ready to play on.

Mr. Murray stated his opinion that all options had been addressed in the RFPs. Ms Clifford noted that a nursery could be in place within 2.5-3 years. She felt that the town had to make a change for trash collection immediately and it should be as cost neutral to the town as possible. There will be no cash flow coming in from the rest of the property for 4-5 years during the capping process. Mr. Murray noted that it depends on the lease of the transfer station – how they did it. Capping the landfill transfers with the transfer station – the road could be relocated on a temporary basis.

Mr. Stone noted that the committee aggress that this needs capping. To unlock the value it will have to be worked on for a period of time. If the town went with town-wide curbside pickup, people will feel they are getting something new...Ms Chang noted, not if they are paying more than they are paying now. Mr. Stone asked, what do people perceive that they give up, what will they get, and when will they get it?

It was noted that when the RFPs hit the street, DEP will be aware. The proposers will also be contacting DEP. The benefit of redevelopment is to have somebody else pay for the capping.

Ms Edwards stated she thought the RFPs relating to solid waste collection and recycling would include different pricing schemes, including variable v fixed rate – PAYT. Mr. Murray replied that the town will define later how the costs work. PAYT could be done. Seniors can get a discount. The contractor will only bid on the cost and how it gets paid will be decided later. Ms Edwards noted that variable rate pricing increases the recycling rate. She believed that PAYT needed to stay on the table.

Mr. Johnson noted that the two contracts were exclusive, and he was a little uncomfortable with that. What is the value of this?

Ms Holley asked if these RFPs were intended to be information-gathering documents. Mr. Murray didn't think that was the case. Mr. Johnson felt that somewhere in the answers to the RFP the truth will appear. Mr. Johnson asked that if the committee is intending to send out a broader spectrum than a monopoly contract.

Mr. Stone noted that if the committee doesn't find out what benefits this structure provides, people will ask why the committee hadn't done so. The committee needs to find out what the price is. How much it costs people now is known; there are vendors with publicly available pricing. Mr. Stone thought it's good to send out the RFPs to get that data.

Ms Chang hoped that from getting information the committee can find something it agrees to take to Town Meeting.

Mr. Murray noted that the dates had slipped somewhat.

Ms Chang related that one of the reasons this consultant had been engaged was that the RFPs would generate what the committee needed to know.

Mr. Murray noted that one of the items missing from the documents was the cost of doing business as it's done now. He felt that all the major items have been covered except the town continuing the current operation, which will be forthcoming. The one option that was not considered was the transfer station without capping the landfill, because it went against the NESWC contract. NESWC is allowed to bid the same services as we get now.

Regarding NESWC, Mr. Howe had talked to people and Waste Management doesn't see value of a regional transfer station in Acton, but they don't want anybody else to have one either. BFI is very interesting in a regional transfer station at this location. If the committee rejected proposals and DEP came in and required the capping of the landfill, as long as oil prices are up we would be ok. If the \$4 million is there from NEWSW we can use it to cap the landfill. If there are town budget shortfalls, NEWSW funds could go elsewhere.

Mr. Stone's understanding of the enterprise fund is that when the contract is over, it would come back to the generally available monies to the town, and not necessarily

devoted to any use. Mr. Murray noted that if the enterprise fund goes away, the money goes to the general fund. The enterprise fund exists by town meeting vote.

Ms Chang wanted to leave the money in the enterprise fund until the landfill gets capped. Mr. Stone noted it could really be used for something else. Ms Clifford noted that town meeting could get rid of the NESWC enterprise fund and have people pick up their trash and have the money; that possibility exists. Mr. Stone noted that the town can close the transfer station, get out of the trash business and take the money, and we still have the land as an asset.

Mr. Murry noted that if an override were to lose – could the schools put enough people into town meeting to close the enterprise fund and use the money for operations? Not impossible.

Ms Chang moved to release the RFPs. Ms Clifford seconded. Ms Holley abstained and all others voted in favor.

It was noted that a DEP file review of the site had been performed by counsel.

There were no subcommittee reports or status updates.

The timeline was described as follows: proposals will be received by January 12, 2005.

Mr. McCarthy noted that a lot of effort has been spent to date. Ms Chang noted that the committee has to digest, make recommendations, and go public. There needs to be a public meeting with handouts, because the information doesn't sink in. Information should be in the library, town hall, etc., for people to look at this. Mr. Johnson noted that a whole lot of other stuff needs to be decided.

There was some discussion as to what the vote on Ms Chang's motion was actually about. Ms Chan was concerned about the time line, noting that public scrutiny will be intense. Mr. Johnson didn't think all the RFP's should be sent out.

Mr. McCarthy asked if CDM would help review proposals. Mr. Murray stated that had been part of the contract with them.

Next steps and future meetings were discussed. Proposals will need to be reviewed, and they are due in on January 12. Per Mr. Murray, CDM thought 3 parties would bid on land purchase. There are also on-site bidders meetings that will indicate who is interested, although Mr. Murray thought there would be maybe 5 bidders on the transfer station and 2-3 on the curbside pickup. Mr. Stone suggested that town staff provide an update in mid-December.

Mr. Stone requested a mid-December meeting with CDM. Mr. McCarthy would like the committee to get input on the information gathered in the pre-proposal meetings. Mr. Murray stated that per their contract, CDM is limited in the meetings it must attend.

Mr. Murray related that there will be a mandatory site visit on December 15, but not for business center and curbside bidders. Mr. Murray believed that meeting in January was more important. If something egregious is to be found in the RFP documents, the committee will meet to discuss it. Mr. McCarthy felt that public meetings might need to be planned before January. Mr. Murray felt that people should talk at the Town Meeting in December, so major issues can be discussed; there should be a presentation.

Therefore, something needs to be said in December and there needs to be a meeting before that. Mr. Murray felt that the entire committee should go to the front at the informational town meeting. Mr. Johnson suggested that the committee meet on the Tuesday before Thanksgiving (November 23) at 7:00 p.m. This date was rejected; Ms Chang suggested Wednesday, November 10.

Mr. Stone was concerned about obstacles and expectations that might be generated by the RFP process; the committee doesn't want to deal with obstacles to outcomes that aren't going to happen. The committee is going in April with something – provided there is something to go with.

Mr. Murray stated that the committee might not have enough information, but right now the goal is April town meeting.

The next meeting was set for November 11 at 7 p.m., place to be determined. Messrs. Ashton and Johnson will have something to present to town meeting, more or less, in December.

Mr. Stone moved to adjourn, Ms Holley seconded, and all voted in favor. Meeting adjourned at 9:15 p.m.

Respectfully submitted,

Carol Holley
Clerk