

**JEFFERSON BELMONT REGIONAL SOLID WASTE AUTHORITY
MINUTES FROM REGULAR MEETING OF JANUARY 6, 2020**

ROLL CALL:

PRESENT: Mike Bianconi, Jerry Echemann, Scott Fabian, John Goosman, George Irvin Jr., Tony Kolanski, Robert Krajnyak, Joe Luckino, James Mavromatis, Mark McVey, Domenick Mucci, Robert Sproul

ABSENT: Nicole Balakos, Chuck Dawson, John Davies

OTHERS: Anita Petrella, Dave Hays, Natalie Lysle, Albin Bauer, Brandon Reese, Dr. Joe Lewis, Geary Bates, Bekah Hawrothweigel, Nicolas Mastros, Frank Takoch, Tony Morelli

A quorum being present, Chairman Scott Fabian called to order the regular meeting of the Jefferson Belmont Regional Solid Waste Authority Board at the Steubenville City Hall, 115 S 3rd Street, Steubenville, Ohio at 5:30PM on, Monday, January 6, 2018.

MINUTES: A motion to approve the December 9, 2019 regular monthly meeting minutes was made by Mr. Mucci and seconded by Mr. Luckino. **Vote: All said Aye, with Mr. Irvin abstaining. Motion passed.**

GUEST SPEAKERS:

Brandon Reese, President of Jefferson County Regional Airport Authority

Mr. Reese spoke about the impact the Waste Authority has on the airport, the siting requirements, and the deadly combination of wildlife and airports. He stated the Airport Authority's main job is safety. He explained how wildlife increases with MSW landfills, mainly birds, which can be dangerous to planes and their occupants. He believes updating the Authority's siting requirements while updating the SW Plan is something that can be used to address that issue, and asked the Board to take a hard look at them now while updating the Plan to protect the people, pilots and passengers. The JC Airport Authority has invested over 20 million dollars into the airport, and just one accident due to increased wildlife could create a big issue of pilots not wanting to use the airport. Large corporate jets now use the airport and buy jet fuel, bringing economic benefits. Word of a bird strike as a result of a nearby landfill would spread like wildfire with pilots who would then stop using the airport, having a big impact on the economic development they have focused on. He asked the Authority to not rely on the limited authority of the FAA and the OEPA to protect the Airport. The OEPA regulation has a exception to their safety zoning rule, if the waste processor is putting a plan in place to protect the airport the EPA may let it pass. The FAA regulations are geared towards large commercial airports. This leaving the Solid Waste Authority as the ones to protect the County Airport through its siting strategy in the Solid Waste Plan.

Mr. Reese discussed how the Jefferson County Airport had construction in 2014 to increase the runway to 5,000 feet to bring in fast corporate jets. Airplanes coming into the airport now are far different than before 2014. They have 500 acres of land that they manage. In one years time the airport has 4,000 airport operations (aircraft landings and takeoffs). They sold 15,000 gallons of Avgas. In 2019 their airport sold 58,000 gallons of jet fuel. He asked the Board to please look at Plan and see if something can be done to help protect the Airport.

Dr. Joe Lewis – Friends of Cross Creek.

Dr. Lewis asked the SW Board to act sooner than the 5 year Plan update to improve their siting strategies. They have been told because of prior litigation 20 years ago in Clark County if the

board acts now they will be violating due process and potentially harming this process. But they have had issues gone on for years with odor in Amsterdam with Apex Landfill, and issues going on for years at Crossridge Landfill that have not been abated. One way to prevent these things is to strengthen the siting plan. The state of Ohio and the ORC gives the Board the authority to create a siting plan that protects the citizens of this community and the environment, and the siting plan is crucial in doing that. He stated many other Waste Authorities in Ohio have already done it and we need to follow suit. He discussed the Lawsuit from 20 years ago, believing it is nothing compared to the situation going on here. He briefly discussed that landfill and the lawsuit, stating the lawsuit was a result of the company being permitted to purchase land and after 8 years of investing 5 million dollars to acquire land, they were then denied the license permit by the waste management board who had decided not to renew their contract. Which resulted in the lawsuit. He stated he was not asking the Board to deny a landfill, but asking the Board to create a siting plan that protects the citizens from problems landfills can create.

Attorney Albin Bauer

Mr. Bauer stated he was one of the attorneys involved in the Clark County Solid Waste Management District litigation mentioned. It extended for over 10 years, from mid-1990's to about 2005. Mr. Bauer stated a lot of the information presented tonight was not accurate, he represented that SWD. At the end of the day it was the Siting Strategy of Clark County SWMD that did keep the landfill from being developed. Upgrading the siting strategy is not a quick process and would take a period of months, it would be similar to the process of adopting a SW Plan Update, which the Authority is currently doing. The procedural requirements to doing that has a lot of hurdles and steps. The ratification process takes a significant amount of time. He explained there were anywhere from 12-15 different separate pieces of litigation in Clark County example, and talking about one case that happened at the end doesn't capture the full details of what happened in that case. Solid Waste Management planning didn't become a thing until after 1991-93 when SW Districts were created. The Districts were a new thing so many did not have siting strategies, and many still don't because it is not standard across the State. They are actually viewed as controversial and litigation generators. He has worked with Solid Waste Districts since 1992 and would estimate considerably less than half of the SW Districts have adopted the authority to have a Siting Strategy to require proposed facilities to get approval before they can be developed.

Mr. Bauer explained what agencies are involved in siting strategies; the EPA really controls the issues for construction and design of a facility, the local township zoning plays a role since the facilities are typically built outside of more developed areas, then (in Ohio) you have Solid Waste Managements Districts were given the ability to take advantage of having a siting strategy to require the facilities to get District approval before they could be developed. At the end of the process is when typically the local Health Department starts to get more involved, with the Clark County situation the local Health Department was not even a factor in all the litigation. The Clark County situation is a rare situation, there is not much of a case log or developed cases like this. He cannot think of another proposed landfill project that has been advanced since then, some discussed, but not legitimately pursued. There was a Court of Appeals decision that said when it comes to Landfill development, each of these responsible agents need to stay in their respective lane. The OEPA looks at construction and design because that is their roll, the district and zoning stays out of that. Zoning looks at compatibility of land uses, that is their roll, which the Districts should stay away from. The District Siting strategy looks to all of the other local impacts within its discretion to consider, like the burden on other local agencies, the impact on district wide economic development, what are the restraints going to be put on local government

resources. They had revised Clark County siting strategy to bring it into harmony with the Court of Appeals decision, and were able to do so because it was before any submission was made to the county for approval. They came up with an effective siting strategy but not without controversy or litigation. What they looked at was whether there would be adverse effects on a range of local considerations.

Mr. Bauer explained how the issue of prejudice and not being able to take a firm attitude on the Boards position did not come out of the case law out of the Solid Waste District, it came out of cases involving Township zoning. There is a significant body of law having to do with certain Constitutional lines you can't pass because of demonstrating bias or animus against a proposed project or development. Public officials come to the situation with a presumption that they will act in good faith and go by facts in the law, especially in environmental cases because sentiments run high. Environmental projects tend to run into more problems in development with respect to officials having to recuse themselves or being disqualified, or potentially the entire body being disqualified, from being able to exercise its decision making because they are viewed as having their mind so made up there was nothing the developer could have done to present a project capable of getting approval. So what he and the Board cares about is that nothing has been presented in terms of an application, and they have very sketchy information. He advises, in order to preserve control over this possible project and what happens with it, they must do as much as they can to protect its authority to conduct the evaluation and have its decision stick as to what happens with the project. A formal resolution suggested by others for the Board to take an opposition standpoint is exactly what would jeopardize the Boards ability to preserve it's right to have a say in the final decisions as to whether a facility will come in or not.

He discussed the amount of moving parts in a project such as this, and they all have to be payed attention to. People are watching carefully about the local District rules and siting strategy, but OEPA has tons of rules, including licensing and permitting rules, and recently presented proposed changes to their licensing rules that are applied by the OEPA or local health departments for solid waste projects such as transfer stations and C&D facilities. One provision the EPA changed in the licensing package was the definition of owner. The rules package eliminates the last part and limits the definition of owner to the legal title holder, which he thinks could be a problem because the industry is so based on the honor system on what types of materials are in the loads of waste to be excluding hazardous materials. Ohio has historically tried to counteract fraud in that by holding more than the legal title holder responsible, they also looked at Holding Companies (LLC), and the investors that have control over the majority interest, to see if they have a history of compliance with environmental law or criminal background. Excluding those from the definition is a significant watering down of the definition of owner, so he on behalf of this Board submitted comments to the Joint Committee on Agency Rule Review opposing that change, he does not know why other organizations such as State Health Departments, County Commissioners Association or other entities have not noticed that, possibly because in the rules package the Ohio EPA did not highlight the fact of that change in their presentation. This Authority is not only looking at its siting strategy, and our rules and procedures for maximum local control, it is looking at the state rules and the State Statutes that are going to be applied. It's been difficult to get reliable information about this potential proposal, and he was uncertain of its existence until he spoke EPA staff and found out there was legitimate conversations on project. The EPA would only consider a full blown MSW landfill permit, those permits take a lot of documentation, and he has not seen a permit application take less than 3 years. And the talk of this going through in less than 12 months didn't seem possible to him. The EPA is not talking to us, and is only talking to representatives of developer. In

addition to making sure our site strategy has real teeth at the district level, and that we are doing everything possible to ensure maximum local control and decision making power, so we are monitoring everything that is happening on the State level on Statutes and administrative rules he recommends taking steps to make sure our local interests have a voice at the table by having same access to the EPA as the developers and legislators. This is done through legislative analysts and assistants in Columbus, which he has already talked to Board members about, to help insure giving this project it's full consideration required by this Authority.

Geary Bates asked about the SWA Board Resolution adopted in 2016 and what power that resolution has and doesn't have. Mr. Bauer said under Ohio State Law a Solid Waste District has authority to adopt a rule that no person shall construct, modify, or enlarge a solid waste facility in the Authority's jurisdiction without first obtaining approval of general plans and specifications for the facility from the Board as being in compliance of the Solid Waste Plan. The resolution was recommended by him to have in place, and was adopted in 2016. The "in compliance with the plan" wording is where the approval process ties in with the Solid waste management plan. The current Plan was written before he was legal council, and that portion is about six pages of it, and includes a number of factors of criteria that the Board will consider in evaluation of whether a proposed facility complies with the Plan as he explained those items earlier.

Mr. Fabian stated that on Friday, December 27th, he, Vice Chair Mr. McVey, Financial Chair Mr. Sproul, and Fiscal Officer Dave Hays of the SWA went to Columbus to meet with Mr. Bauer and a government policy group. They are a lobbyist group in Columbus with a great reputation with legislators in Ohio, the OEPA and other agencies who could help get the Authority in talks with the OEPA. He proposed the Authority obtain their services for \$6,000 a month, for one (1) year, on a month to month contract that can be terminated with a 30 day notice, on both sides. Mr. Bauer added he has had significant prior experience working with them and they can be very effective. They will be able to help on administrative matters, and thinks this is needed right now to meet the concerns of this situation.

Mr. Luckino made the motion to hire the group as advised. Mr. Mucci seconded. Mr. McVey stated to give authorization to Scott Fabian to be the point man to talk to Mr. Bauer on this matter instead of a variety of different members. Mr. Mucci added that the executive director to be fully informed of the conversations as well, and the finances be addressed to cover these costs at the next meeting. **Vote by Roll call, all said yes.**

Motion passed.

Joe Lewis stated he understands the Board cannot take a position. but he has looked at siting plan and at other siting plans, and thinks it can be strengthened. Mr. Bauer said adjustments can be made and discussed modifications made to Clark County siting strategy, and they should do an analysis and determine the type of strategy they want to follow. Mr. Bauer will look and see if there are things he can look at, but there are things in there now that people don't appreciate and doing some changes would be more expediently done by Rule.

Bekah Hawrothweigel, a Jefferson County resident and member of the Cross Creek group, stated she wasn't here to talk about the former Crossridge landfill or Greenway, she wanted to speak about the legacy of Jefferson County that we are creating for our children, and quality of life. She stated they do not want to ever see another landfill in Jefferson County because they already see the long-term problems an improperly cared for landfill can cause. She gave additional

reasons she does not want to see another landfill open in Jefferson County, and asked the Board if they can strengthen the siting requirements and if there is going to be a Planning Committee meeting on the matter when would that be? Mr. Bauer stated if the provisions of the Plan were written to so as to effectively ban development of any landfill in Jefferson County there would be a number of legal problems, a number of constitutional grounds for invalidating that kind of a ban. He advised since there has been no application filed yet the best thing for the group to do would be for look at the Townships zoning, it is a very useful tool. Members of the public present stated they are already working on that. Mr. Bauer stated on the District level the best thing to do is have an effective local rule that says no one can building without approval first and the approval has good teeth so something can't come in that would be inappropriate, disruptive or negative for the community.

Mr. Bauer stated in regards to a meeting to discuss the siting requirements, the normal process of amending a SWD Plan is a 15 month process. The SW Plan is in the process of being update now, and does not recommend doing an amendment parallel to that.

Mr. Nicolas Mastros asked since there is no official application yet wouldn't it be best to start siting changes now not after an application is received. Mr. Bauer stated once the application is received the siting is grandfather at that point. Mr. Mastros spoke on reasons he believes the Board should start on a siting change now. The process of adopting Rules was questioned by a member of the public. Mr. Bauer explained they are more streamlined, the Resolution mentioned from 2016 is a rule. Some districts have siting strategies completely encapsulated within their Plan, some are completely encapsulated within the Rule, and some are mixed. It was asked if could be feasible for the Board to draft a Rule for protection of the airport and the concerns mentioned.

Mr. Frank Takoch stated he lives near the landfill then spoke about where the garbage comes from, asked what do we do with garbage in future, adding that New York can legally dump it's waste in Ohio and he believes the garbage coming from out of State should be stopped.

Tony Morelli, a Cross Creek resident stated he attended that last Board meeting and asked if what Mr. Luckino brought up at the last meeting regarding getting together with the Planning group was done. Mr. Fabian answered no Planning meeting was held and none is schedule at this time.

Mark Nelson asked about the discussion at the last meeting about the change in the Plan in order to purchase the building at the Industrial Park and if that would be possible in regards to the siting. Mr. Bauer explained on that issue it was only a Budgetary amendment, which is much simpler and quicker, but still took about four months to do. Mr. Nelson then stated what was described by Mr. Bauer as changes to the OEPA's description of "ownership of facilities", he would like to state that from what he understood from the stakeholder meeting held with the Greenway company, is that the company would be leasing the landfill property, which would still seemingly profit the landfill owners. The Health Commissioner had asked all organizations present at that meeting to speak for their organization on whether they would be for or against the proposal moving ahead. Along with other organization being represented, he and others were present representing the Jefferson Soil & Water. He stated the members of the SW organization present verbally gave their blessing of the proposal moving ahead before leaving the meeting. He asked if that meeting, which they were asked to keep a secret of and asked for verbal opinions would void the powers or possibility for the proper licensing procedures. He stated that

three of the Greenway owners had just left home where they ran Sunny Farms into the ground last February, and are now being welcomed into our community. One of them, Martin Sternburg, was on a banned list for landfills, and Jeff Raziosi is a New York or Federal Felon. The original owner Vladimir Cica brought them to our community which gives him reasons for concerns. Mr. Bauer is uncertain at this point if the lease holder to be the responsible party or the landowner with the changes made by the EPA. But he was very involved in the Sunny Farms landfill situation, which concluded in July. What he describes for the meeting seems to be, from his experience, the standard operating procedure for the materials and waste management division of EPA, which is the EPA is glad the company came and talked to them about what they have in mind, but they won't answer any questions and it is up to the company to go out and talk to the communities and interested people and answer their questions.

Mr. Mavromatis left the meeting.

STAFF REPORTS:

Fiscal Report: Dave Hays

Mr. Hays reminded the Board that in December he asked to transfer money from the General Fund to the Rates & Charges fund to cover the year end deficit and will exclude that amount from his report here because it is a wash.

Mr. Hays reported revenues for \$239,651.72, with expenditures of \$162,844.19 (excluding the transfer) and net income of \$76,807.43. The non-payroll expenditures were reviewed. Mr. Mucci asked about the December 14th payment to the Jefferson County Health Department for the Flu shots. Mrs. Hays explained that was for four Authority employees.

Tonnage report showed 11,986.76 In-District tons, 18,965.43 Out-of-District tons, 65,986.59 Out-of-State tons, for a total of \$148,807.51.

A motion to accept the fiscal officer's report and approve Expenditures for December 2019 was made by Mr. Mucci and seconded by Mr. Sproul. **VOTE: Unanimous, Yea, by roll call. Motion passed.**

Director's Report: Anita Petrella

Ms. Petrella asked the Board if they wished to fund the 2020 Community Cleanups held annually at the Townships and Villages. A motion would be needed if so.

Mr. Kolanski made a motion to approve the 2020 Community Cleanups for the Spring and Fall. Mr. Krajnyak seconded. **Roll call Vote: All said yes. Motion passed.**

EXECUTIVE COMMITTEE REPORT: Scott Fabian

None.

FINANCE COMMITTEE REPORT:

None.

PERSONNEL COMMITTEE REPORT:

None.

PLANNING COMMITTEE REPORT:

None.

GRANTS/SPECIAL EVENTS COMMITTEE REPORT:

None.

SEARCH COMMITTEE:

None.

LANDFILL REPORT:

Mr. Bell stated due to the litigation in Jefferson County the Jefferson County Health Department is following the direction of the OEPA and the Attorney General's Office.

OLD BUSINESS:

Belmont meeting locations

Mr. Echemann stated with Martins Ferry Library not wanting to book their room more than a few months in advance he had been in contact with he Martins Ferry Wendy's. They could accommodate the Board for the Belmont meetings in their Community Room. There is plenty of parking, the room is a good size and will meet the Boards needs. The cost will be \$35 per meeting. Members discussed and had no objections to the new location. Mr. Echemann will take the list of dates presented and reserve them.

Harrison County Road 51

Mr. Fabian stated the Jefferson County Prosecutor reviewed the amendment and responded that it would allow for the \$50,000 to be used for material and labor. But at the last meeting the Board indicated it would not approve for the money to be spent on labor; and asked for confirmation of the intention of the Board. Members discussed and agreed they had intended for the funds to not be allowed for labor. An email will be sent back making it clear that those funds will not be spent on labor. Mr. Bauer will add that to the Contract.

CHAIRMAN COMMENTS/NEW BUSINESS:

Mr. Fabian stated the Health Department contract was given to Mr. Bell to bring to the Health Board. Mr. Mucci asked for the SW Board to be able to review the contract before approval. Mr. Fabian will send a copy of the Contract to the office to be forwarded to the full Board.

Mr. Krajnyak stated he was contacted by Scott Porter, Service Director of Martins Ferry, a 2019 grant recipient, who asked if they could have an extension with their Grant and submitting their

Completion report due to the changes at the end of the year. Members discussed and agreed to allow the extension until the end of February.

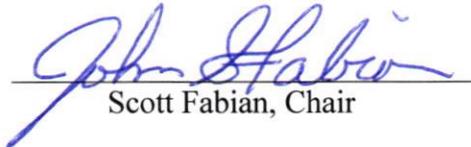
Next meeting set for Monday, February 10th, 2020

Mr. Mucci had question about the Jefferson County Health Department Contract. The amount was set not to exceed \$125,000 for the year, which will be paid by itemized Invoices. He asked in theory if those Invoices totaled up to \$125,000 in just three months, is that then all the funds they would be paid. The answer was correct, that would be the full amount regardless of when it was billed in 2020, and full details of spending would definitely be required.

The Finance Committee is expected to meet due to legal funds before discussions of the Community Grants would be considered by the Board.

ADJOURNMENT: With no further business to come before the board, the meeting was adjourned at 7 pm. with a motion from Mr. Mucci, seconded by Mr. McVey. **Vote: All said Aye.**

ATTEST:



Scott Fabian, Chair



Mike Bianconi