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 SOLID WASTE MANAGEMENT AGENCY
 JOINT POWERS BOARD MEETING
 January 24, 2013

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| CALL TO ORDER & ROLL CALL | Quorum | 1 |
| APPROVAL OF THE AMENDED AGENDA | Approved | 1 |
| APPROVAL OF THE MINUTES FOR SPECIAL MEETING – DECEMBER 13, 2012 | Approved | 2 |
| MATTERS FROM THE PUBLIC | None | 2 |
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| REQUEST FOR APPROVAL OF AMENDMENT NO. 5 TO THE PROFESSIONAL SERVICES AGREEMENT WITH SCS FIELD SERVICES OF ALBUQUERQUE, NM, FOR THE OPERATION AND MAINTENANCE OF THE LANDFILL GAS COLLECTION SYSTEM AT THE CAJA DEL RIO LANDFILL IN THE AMOUNT OF \$83,312.00 | Approved | 2-3 |
| APPROVAL OF BUDGET INCREASE FROM 5503.100700.0700 (LANDFILL GAS COLLECTION RESERVE) TO 52501.510300 (PROFESSIONAL SERVICES) IN THE AMOUNT OF \$83,312.00 | Approved | 2-3 |
| REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT WITH SCS ENGINEERS OF BEDFORD, TX, FOR ENGINEERING SERVICES (AIR-RELATED COMPLIANCE) FOR THE LANDFILL GAS COLLECTION SYSTEM AT THE CAJA DEL RIO LANDFILL IN THE AMOUNT OF \$17,718.60 | Approved | 3 |
| APPROVAL OF BUDGET INCREASE FROM 5503.100700.07000 (LANDFILL GAS COLLECTION RESERVE) TO 5201.510300 (PROFESSIONAL SERVICES) IN THE AMOUNT OF \$17,718.60 | Approved | 3 |



COUNTY OF SANTA FE)
 STATE OF NEW MEXICO) ss

SOLID WASTE MINUTES
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I Hereby Certify That This Instrument Was Filed for Record On The 28TH Day Of February, 2013 at 11:54:20 AM And Was Duly Recorded as Instrument # 1697864 Of The Records Of Santa Fe County

Deputy Marcella [Signature]) ss
 Witness My Hand And Seal Of Office
 Geraldine Salazar
 County Clerk, Santa Fe, NM

SFC CLERK RECORDED 02/28/2013

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| REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO EXTEND THE PROFESSIONAL SERVICES AGREEMENT WITH LONG, POUND & KOMER, P.A., OF SANTA FE, NM, FOR LEGAL SERVICES | Approved | 6-7 |
| REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO EXTEND THE PROFESSIONAL SERVICES AGREEMENT WITH CDM SMITH, INC., OF ALBUQUERQUE, NM, FOR ENGINEERING DESIGN AND PERMITTING SERVICES FOR PERMIT RENEWAL, PERMIT MODIFICATION, LANDFILL VERTICAL AND LATERAL EXPANSION, AND CELL 5B/6B DESIGN FOR THE CAJA DEL RIO LANDFILL | Approved | 7-8 |
| REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT TO WAGNER CATERPILLAR OF ALBUQUERQUE, NM, TO REPAIR HYDRAULIC SYSTEM TO UNIT 1433 (CATERPILLAR 950G II WHEEL LOADER) IN THE ESTIMATED AMOUNT OF \$54,192.75 | Postponed to 02/23/13 | 8-15 |
| APPROVAL OF BUDGET INCREASE FROM EQUIPMENT REPLACEMENT RESERVE – 5502.100700.07000 TO REPAIR MACHINERY AND EQUIPMENT – 52504.520400 IN THE AMOUNT OF \$54,192.75 | Postponed to 02/23/13 | 8-15 |
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| MATTERS FROM STAFF | None | 30 |
| NEXT MEETING DATE | February 21, 2013 | 30 |
| ADJOURNMENT | | 30 |

SFC CLERK RECORDED 02/20/2013

**SOLID WASTE MANAGEMENT AGENCY
JOINT POWERS BOARD MEETING
Legal Conference Room
Santa Fe County Courthouse
January 24, 2013**

SFC CLERK RECORDED 02/20/2013

I. CALL TO ORDER

A meeting of the City and County of Santa Fe Solid Waste Management Agency Joint Powers Board (SWMA) was called to order by Peter N. Ives, Acting Chair, on Thursday, January 24, 2013, at approximately 12:00 noon, in the Legal Conference Room Santa Fe County Courthouse, 102 Grant Avenue, Santa Fe, New Mexico.

II. ROLL CALL

MEMBERS PRESENT:

Councilor Peter N. Ives
Councilor Miguel Chavez
Councilor Bill Dimas
Commissioner Kathy Holian
Commissioner Daniel Mayfield
Councilor Christopher M. Rivera

STAFF PRESENT:

Randall Kippenbrock, Executive Director – SWMA
Angelica Salazar, SWMA
Justin Miller, Legal Counsel
Melessia Helberg, Stenographer

There was a quorum of the membership in attendance..

III. APPROVAL OF THE AMENDED AGENDA

MOTION: Commissioner Holian moved, seconded by Councilor Dimas, to approve the Amended Agenda as presented.

VOTE: The motion was approved unanimously on a voice vote.

IV. APPROVAL OF THE MINUTES FOR SPECIAL MEETING – DECEMBER 13, 2012

MOTION: Commissioner Holian moved, seconded by Councilor Rivera, to approve the minutes of the special meeting of December 13, 2012, as presented.

VOTE: The motion was approved on a voice vote, with Commissioner Chavez abstaining.

V. MATTERS FROM THE PUBLIC

There were no matters from the public.

VI. MATTERS FROM THE EXECUTIVE DIRECTOR

(A) REQUEST FOR APPROVAL OF AMENDMENT NO. 5 TO THE PROFESSIONAL SERVICES AGREEMENT WITH SCS FIELD SERVICES OF ALBUQUERQUE, NM, FOR THE OPERATION AND MAINTENANCE OF THE LANDFILL GAS COLLECTION SYSTEM AT THE CAJA DEL RIO LANDFILL IN THE AMOUNT OF \$83,312.00.

(1) APPROVAL OF BUDGET INCREASE FROM 5503.100700.0700 (LANDFILL GAS COLLECTION RESERVE) TO 52501.510300 (PROFESSIONAL SERVICES) IN THE AMOUNT OF \$83,312.00

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum of January 11, 2013, with attachments, to the SFSWMA Joint Powers Board, which is incorporated herewith to these minutes as Exhibit "1." Please see Exhibit "1" for specifics of this presentation.

MOTION: Councilor Dimas moved, seconded by Commissioner Holian, to approve Item VI(A), as presented.

VOTE: The motion was approved unanimously on a voice vote.

MOTION: Councilor Rivera moved, seconded by Councilor Dimas, to approve Item VI(A)(1), as presented.

DISCUSSION: Commissioner Chavez said then this budget adjustment is just for this fiscal year, or the upcoming fiscal year.

Mr. Kippenbrock said it is for this calendar year, coming out of this fiscal year's budget.

Commissioner Chavez asked if he sees this recurring in these two years.

Mr. Kippenbrock said this is an annual reoccurring expense. He said we have a Landfill Gas Collection reserve to which is added \$125,000 to \$175,000 per year, and it drawn from that reserve to the professional services in the operating budget.

Commissioner Chavez asked if this is the reason he referenced it earlier as operation and maintenance, and Mr. Kippenbrock said yes.

Commissioner Chavez asked if the budget adjustment of \$83,000 is consistent, or does he see a fluctuation in that amount.

Mr. Kippenbrock said it is somewhat up and down between \$80,000 to \$95,000 annually, depending on the needs and what may happen, noting it is the non-routine breakdown of sensors, monitors, and such where they have to come up and repair it. He said the troubleshooting can take some time as well.

VOTE: The motion was approved unanimously on a voice vote.

- (B) **REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT WITH SCS ENGINEERS OF BEDFORD, TX, FOR ENGINEERING SERVICES (AIR-RELATED COMPLIANCE) FOR THE LANDFILL GAS COLLECTION SYSTEM AT THE CAJA DEL RIO LANDFILL IN THE AMOUNT OF \$17,718.60**
- 1) **APPROVAL OF BUDGET INCREASE FROM 5503.100700.07000 (LANDFILL GAS COLLECTION RESERVE) TO 5201.510300 (PROFESSIONAL SERVICES) IN THE AMOUNT OF \$17,718.60.**

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated January 11, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "2. Please see Exhibit "2" for specifics of this presentation

MOTION: Commissioner Holian moved, seconded by Councilor Dimas, to approve Item VI(B) as presented.

VOTE: The motion was approved unanimously on a voice vote.

MOTION: Commissioner Holian moved, seconded by Councilor Rivera, to approve Item VI(B)(1) as presented.

VOTE: The motion was approved unanimously on a voice vote.

(C) REQUEST FOR APPROVAL OF AMENDMENT NO. 3 TO PROFESSIONAL SERVICES AGREEMENT WITH PLANIT COMPUTER OF ALBUQUERQUE, NM, FOR COMPUTER SUPPORT SERVICES FOR THE CAJA DEL RIO LANDFILL AND BUCKMAN ROAD RECYCLING AND TRANSFER STATION IN THE AMOUNT OF 37,780.00.

Randall Kippenbrock, Executive Director , presented information regarding this matter from his Memorandum dated January 11, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "3." Please see Exhibit "3" for specifics of this presentation

Commissioner Mayfield asked if this company does any program development or if it just maintains the current hardware and software.

Mr. Kippenbrock said the company upgrades our licenses for software, adds new software if needed, maintains existing equipment, any upgrades, changing configurations, etc.

Commissioner Mayfield asked if SWMA maintains and owns the license.

Mr. Kippenbrock said the license belongs to SWMA if the contract ceases.

Commissioner Mayfield asked if there is a reason why the City or the County couldn't assist SWMA with this type of work.

Mr. Kippenbrock said yes. SWMA has a fiscal agreement with the City of Santa Fe, and one of the requirements is that we have our own IT support.

Chair Ives said this year there is an increase of \$37,000, and asked if that is because of the anticipated upgrade to the phone system.

Mr. Kippenbrock yes, and it also is a buffer for any unplanned event.

Commissioner Mayfield asked if there is a disaster recovery plan if the software crashed, and if this is in this contract.

Mr. Kippenbrock said yes, and they also work with specific vendors, which also has a supplier for backup systems.

Commissioner Mayfield asked where the servers are kept.

Mr. Kippenbrock said they are at Caja del Rio Landfill, but in different buildings.

Commissioner Chavez said there is a document in the packet from the contractor with a breakdown by area and dollar amount, and asked "if they are tied to that. Does the contract, the PSA reflect the scope of services and the dollar amounts.

Mr. Kippenbrock said yes.

Commissioner Chavez asked if that addresses questions of the Board members as far as ownership and [inaudible].

Responding to Commissioner Chavez, Mr. Kippenbrock said the routine services are, he normally comes out once a week to check on our system, and any requests we have for necessary repairs.

Commissioner Chavez asked if he would do the backup at that time, and asked if that is part of the contract.

Mr. Kippenbrock said the backup could be done under routine as well as emergency services. He said the system was upgraded last year to install a new backup system with redundancy. He said most of the emergency services are because of a glitch in software for him to help us get it back up and running. He would also help us retrieve certain data.

Commissioner Mayfield asked if the accounts payable is on this software and will be backed up as well, and Mr. Kippenbrock said yes.

Mr. Kippenbrock said they have the central file server in the main administrative building and the backup system is in another building, and it does a daily backup in the evening.

Commissioner Chavez asked if the contractor keeps anything.

Mr. Kippenbrock said everything stays on site, and the contractor has access to do the work that needs to be done.

Commissioner Mayfield asked for examples of anticipated special projects for \$12,500.

Mr. Kippenbrock said it is updating the wiring inside the administration building to give us a higher speed to retrieve files, potentially replacing the phone system, and possibly updating cameras at the pay stations

Acting Chair Ives asked if it is a regular process at the City and/or the County to create a daily backup on tape and store off site. He asked if, there was damage to a building in which the server is housed, are they close enough in terms of proximity that there potentially could be damage to the other building.

Mr. Kippenbrock said the separation is approximately 300 feet from each building.

Commissioner Mayfield said SWMA is subject to the Open Meetings Act and Public Records Act, and asked if everything is backed up for public inspection, and Mr. Kippenbrock said yes.

MOTION: Commissioner Holian moved, seconded by Councilor Dimas, to approve Item VI(C) as presented.

VOTE: The motion was approved unanimously on a voice vote.

(D) REQUEST FOR APPROVAL OF AMENDMENT NO. 2 TO EXTEND THE PROFESSIONAL SERVICES AGREEMENT WITH LONG, POUND & KOMER, P.A., OF SANTA FE, NM, FOR LEGAL SERVICES

Randall Kippenbrock, Executive Director , presented information regarding this matter from his Memorandum dated January 11, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "4." Please see Exhibit "4" for specifics of this presentation.

Commissioner Mayfield said he appreciates the services which are provided. However, Santa Fe County has a full complement of attorneys and perhaps could provide services on a part time basis. He doesn't know about the City. He would like to take this back to the full Commission to see if they would be willing to have the County to provide legal services to this Board as a way to save fund.

Commissioner Chavez said it is a discussion worth having with both local governments, because the dollar amount needs to be questioned sometime, but doesn't know if now is the appropriate time. He said there times where the local governments and staff can provide some of these services in certain areas and circumstances if we have to do it that way. He reiterated that right now may not be the time to have that discussion, and he would defer to the Chair as to when the SWMA Board would have that discussion. He said we might also want to discuss contractual services in general with an eye to cost savings.

Acting Chair Ives said having a conversation is always worthwhile. However, he said he knows it could conflicts for City and County attorneys where they are asked to represent the Agency which has an independent status. He would hate to place the attorneys in the circumstance of serving two masters at cross-purposes, and then end up without any attorney when they conflict themselves. He said the current contract runs through January 2013, and it is not a good idea to be without counsel. He said the discussion is worth having, and at future meetings we could have an agenda item to review the various contracts of the Agency where there might be an opportunity to take advantage of City or County provision of services in lieu of independent third parties. He said because of the potential for conflict, it may take some significant discussion with the attorneys. He said he would like to move this forward, but come back and revisit the issue, commenting saving taxpayer dollars should always be a goal.

Commissioner Mayfield said when it comes to legal contracts, there is always a provision to allow for amendment, and it seems we never put those out for competitive bids. He would like to put it out for RFP to try to save a little more money every once in a while.

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Commissioner Holian said she agrees with the Chair that we should move forward with this contract now, and then have a discussion about how we want to proceed in the future, because we really shouldn't be without legal representation, noting it may take a while to work out all of the details.

Acting Chair Ives said it would be helpful for Mr. Kippenbrock to provide a listing of all contracts in place, with the attorneys included, and the current terms of the existing contracts. He said we would have that information when/if that process would need to begin, if the Board is interested in rebidding. He asked Mr. Kippenbrock if he could have that for the next meeting, and Mr. Kippenbrock said yes.

Commissioner Chavez said he would like to look at the local preference and see how much of the money we can keep in-state and what has to go out of state, noting sometimes the services aren't available locally.

MOTION: Commissioner Holian moved, seconded by Commissioner Chavez, to approve Item VI(D) as presented.

VOTE: The motion was approved on a voice vote, with Commissioner Holian, Commissioner Chavez, Councilor Dimas, Councilor Rivera and Councilor Ives voting in favor of the motion, and Commissioner Mayfield voting against.

(E) REQUEST FOR APPROVAL OF AMENDMENT NO. 1 TO EXTEND THE PROFESSIONAL SERVICES AGREEMENT WITH CDM SMITH, INC., OF ALBUQUERQUE, NM, FOR ENGINEERING DESIGN AND PERMITTING SERVICES FOR PERMIT RENEWAL, PERMIT MODIFICATION, LANDFILL VERTICAL AND LATERAL EXPANSION, AND CELL 5B/6B DESIGN FOR THE CAJA DEL RIO LANDFILL.

Randall Kippenbrock, Executive Director , presented information regarding this matter from his Memorandum dated January 14, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "5." Please see Exhibit "5" for specifics of this presentation.

Commissioner Chavez said then in this case it would be a total of 7 years if it ran its course.

Mr. Kippenbrock said it would be a total of 4 years. He said he is hoping to have the permit on or before June 2015.

Commissioner Chavez asked at what point would we consider a contractor like this a sole source provider, if the contract is amended 5-6 times. How do you determine that. He said then there is a point where, after the fourth year, it would go out to bid again, and Mr. Kippenbrock said yes.

Commissioner Chavez asked if that has been standard, or is it a range and it varies.

Mr. Kippenbrock since he's been on board, 2004, we have extended agreements for up to 4-years, but there was a case where we weren't satisfied with the services, and we terminated the agreement. He said either party could terminate the agreement.

Commissioner Chavez said, then you have a kill clause for all contracts, and Mr. Kippenbrock said yes.

MOTION: Commissioner Holian moved, seconded by Councilor Dimas, to approve Item VI(E) as presented.

VOTE: The motion was approved unanimously on a voice vote.

(F) **REQUEST FOR APPROVAL OF SOLE SOURCE PROCUREMENT TO WAGNER CATERPILLAR OF ALBUQUERQUE, NM, TO REPAIR HYDRAULIC SYSTEM TO UNIT 1433 (CATERPILLAR 950G II WHEEL LOADER) IN THE ESTIMATED AMOUNT OF \$54,192.75.**

(1) **APPROVAL OF BUDGET INCREASE FROM EQUIPMENT REPLACEMENT RESERVE – 5502.100700.07000 TO REPAIR MACHINERY AND EQUIPMENT – 52504.520400 IN THE AMOUNT OF \$54,192.75.**

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated January 14, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "6." Please see Exhibit "6" for specifics of this presentation

Commissioner Chavez asked Mr. Kippenbrock to touch on sole source status.

Mr. Kippenbrock said, "The first one, sole source, generally is when you buy a piece of equipment from an authorized dealer. For example, in the State of New Mexico, it happened to be Wager Equipment for Caterpillar. Normally you can use sole source procurement to work with the vendor to have a repair made, or buy parts, or get technical assistance from them. This has been what our standard practice has been since I've been on board. This particular loader, we normally work with them. We originally had the pump fixed, but the failure caused damage throughout the entire hydraulic component. And in order to determine the extent of the damage, we had to transport the loader down to their facility in Albuquerque where they did a complete breakdown, where they determined that numerous pumps and lifts and cylinders needed to be replaced or recondition."

Mr. Kippenbrock continued, "The thing about hydraulic systems, unlike other components, once it's contaminated, it's very difficult to get it cleaned and up to speed where it needs to be. It was a tough call. We were hoping the equipment would last for another 7 [3] years, so we could get it replaced with a new one. We made a decision to go ahead and have it repaired, with the determination that engine and transmission, based on oil samples, were in good condition. And that's the approach that we're taking right now."

Responding to Commissioner Chavez, Mr. Kippenbrock said the budget increase takes money from the equipment reserves where we've set aside money every year to the operations line item, which is called repair of machinery and equipment in the Buckman Road Recycling operating budget.

Commissioner Chavez said then this would fall within the category of operation and maintenance, and Mr. Kippenbrock said yes.

Councilor Rivera said he is unclear on the definition Mr. Kippenbrock gave of sole source, and asked him to repeat that.

Mr. Kippenbrock said, "Sole source can be used where you buy a piece of equipment, for example, we bought the loader from Wagner Caterpillar, and Wagner can provide us with parts, service, technical guidance as well as repair. And we have used that particular sole source as far as using that particular vendor to help us do the work on that."

Councilor Rivera asked Angelica if that is Finance's definition of sole source.

Angelica Salazar said it allows the dealer to do the labor and repairs.

Councilor Rivera asked if it is defined as sole source.

Ms. Salazar said a sole source is the only provider, or there is only one vendor for this for labor [inaudible].

Councilor Rivera said his understanding of sole source is that there is nobody else locally within the area that can provide those same services. He asked, "Is that what you're telling me – that this vendor is the only one."

Ms Salazar said under the exemptions section of Santa Fe's Purchasing Manual, you can use the dealer for parts and labor, and that is allowable, as well as Wagner has a State Price Agreement that we can negotiate with them.

Councilor Rivera said the State Price Agreement is different from sole source, and it would have been clearer to do it that way.

Ms. Salazar said that would be an exempt purchase through the City's Purchasing Manual.

Councilor Rivera said then this company is under the State Price Agreement for providing these types of services.

Mr. Kippenbrock said yes.

Councilor Rivera said, "I doesn't necessarily agree with the sole source as written in here, and it seems to me like we're, since the services have already been provided, that we're trying to list it as a sole

source, because the work is already done. I'm not sure that is the proper way to put it in the packet. I think the State Price Agreement would have been more appropriate, so with that, I'm probably going to vote no on this."

Commissioner Chavez said, "If the definition says it is a specialty service, it is a service that no one else can supply, or in this case, might better be provided by the dealer, because they have access to the parts, at least the State list. I can see where that would apply. But I think that as a sole source in general, it could be looked at, to expand on the definition and how it is applied. I think, in this case, it makes some sense, and I don't know if anyone would want to maintain this piece, and what it would cost if you went somewhere else, but we would have to look at that as well. Just food for thought."

Councilor Rivera asked Justin Miller if he has a legal opinion on how it was presented or advertised.

Mr. Miller said, "The sole source procurement and the Procurement Code is part of the purchaser making a good faith review to determine that there's only one source for those services and goods. It sounds like maybe this particular vendor wasn't the only one who could provide [the service], so maybe the sole source is not the most accurate term. It also sounds like the work was done for emergency reasons to keep operations going, and that's another type of procurement under the Procurement Code. So probably a little more attention to defining the type of procurement should be contained in here."

Acting Chair Ives asked, in terms of the procurement processes between the City and County, and in terms of the Authority, are we obligated under one or the other.

Mr. Miller said, "The SWMA organizational documents say the Agency will follow the State Procurement Code, and it also works with the City on purchasing policy and the Agency purchasing policy, but in general it is the State Procurement Code."

Acting Chair Ives said since he's been on this Board, this is first instance where we've done emergency repairs prior to bringing something before the Authority. He said State Procurement addresses how those kinds of purchases are to be handled, and asked if there are dollar limitations on those. He wants to make sure, going forward, we're doing it right, not that we haven't in this instance, but he doesn't know enough to say "yea or nay."

Mr. Miller said he doesn't know there is a specific dollar amount, but he does know Randall is authorized to make certain purchases up to a certain amount. And purchases above that, require coming to this Board for approval. He said as far as emergency services, he can review cases where he has to go ahead and then come to the Board for approval.

Commissioner Mayfield said then this repair has been done, and Mr. Kippenbrock said yes.

Commissioner Mayfield said, "And you didn't get any other bids, you just directly went to this company."

Mr. Kippenbrock said, "We transported the loader to the facility, so they could tear down the equipment and trouble-shoot exactly what needed to be repaired. The original estimate was thirty some thousand [dollars] before we transported it down there, so they could start taking a look at it. However, after it is all said and done, including tax, it came out to \$54,000 plus."

Commissioner Mayfield asked who made that decision to take it to the facility and get it prepared, and Mr. Kippenbrock said he did.

Commissioner Mayfield, "You knew it was \$30,000 initially."

Mr. Kippenbrock said it was \$30,000 plus.

Commissioner Mayfield asked the procurement threshold to do this, and Mr. Kippenbrock said it is \$50,000.

Responding to Commissioner Mayfield, Mr. Kippenbrock said, "I met with him on January 11th at their office. They gave me the final price and what it would cost to fix it."

Commissioner Mayfield asked if we violated the Procurement Code.

Mr. Miller said, "I don't think so."

Commissioner Mayfield asked Ms. Martinez if we violated the Procurement Code.

Teresa Martinez, County Finance Director, said, "No. This is a typical practice, and probably an emergency procurement may have been a better way to phrase it. But if it impedes operations, and I don't know the threshold, but he would have the ability, and the fact that he is bringing it back to you for ratification is probably the proper procedure. We're okay."

Mr. Miller said, "The threshold under the Procurement Code, allows purchases of up to \$50,000, without going out for proposals. That's called a small purchase. When it is over \$50,000, that is one of the normal scenarios where you have to go out for bid proposals. But under emergency procurement or sole source, those are the types of situations in which you can go above \$50,000."

Commissioner Mayfield asked when the equipment broke.

Mr. Kippenbrock said the latter part of last year.

Commissioner Mayfield asked, what date did the equipment break.

Mr. Kippenbrock said he doesn't know at this time.

Commissioner Mayfield asked how long the equipment was broken before he took it down to Albuquerque.

Mr. Kippenbrock said, "The loader was repaired at the end of last year, with the pump, then we had some more issues, then we took it down there to Wagner to have it further evaluated. We felt that we would just require a hydraulic component to be reconditioned. And one thing led to another."

Commissioner Mayfield asked, "Was there any time where you could have put this out for bid, get an estimate from other vendors to price it and get it fixed, or was it an emergency and we had to have it fixed immediately. Was there was some down time where we could have maybe priced this out."

Mr. Kippenbrock said, "The concern that I had. We utilized Wagner, we asked them to transport it down there, we had an estimate. The machine was torn apart, and a decision had to be made, do we proceed, or do they put it back and charge us for diagnostics. And that's what I ended up doing."

Commissioner Mayfield asked, "Could you have brought this back to the Board anytime last year."

Mr. Mayfield said, "At the time we didn't expect to be over \$50,000, not at all, not even close."

Commissioner Mayfield asked, "When did they give you the estimate for \$30,000, and when did they give you the estimate of \$50,000."

Mr. Kippenbrock said, "And again, I'm speculating it's approximately \$31,000. Again, it was toward the end of last year, whether it was November or December, I don't know. I'll have to get that information for you."

Commissioner Mayfield said, "And we had a Board meeting back then, correct."

Mr. Kippenbrock said, "Yes, we did. We had a special meeting December just strictly on the landfill permitting. And we had a Board meeting in November. But my recollection was just normal procedure as far as trying to get the machine fixed, which we did. And then it broke down again, and the next step led to one thing after another."

Councilor Rivera asked who repaired the pump in the loader.

Mr. Kippenbrock said, "The original pump, it was Wagner Caterpillar that came to the site."

Councilor Rivera asked, "And they didn't have any responsibility in the problems at the failure of this pump."

Mr. Kippenbrock said yes.

Councilor Rivera said, "And it wasn't under warranty, it wasn't part of something that they should have repaired because the pump was the initial problem."

Mr. Kippenbrock said, "The conclusion came that the pump did fail. We replaced that pump, but I also recognized that the original pump may have failed so significantly that it contaminated and damaged

other components throughout the entire system. But we also learned after some other worn parts that needed to be replaced as well.”

Councilor Rivera asked if this could have waited 12 days to get approval from this Board, since you knew it was going to be over \$50,000.

Mr. Kippenbrock said, “Actually it was under \$50,000, if I can recall, it was \$51,971 on January 11, 2013. Yes, I probably could have waited on January 11th to get the Board approval.”

Councilor Rivera said, “Did it need to be fixed sooner than that, that it couldn’t wait the 12 days.”

Mr. Kippenbrock said, “Perhaps.”

Councilor Rivera said, “I’m still very uncomfortable with this whole situation.”

Commissioner Chavez said, “I just want to back to operation and maintenance, and I guess it might be easier said than done, and I don’t know if I could do Randall’s job, and I don’t know that he would want to do my job. But, in this case I think that again, we raised the question and rightly so about the difference between sole source and emergency. And then I think there’s just the standard practice of allowing staff to do their job on a day to day basis, than to become a foreman. I think we need to let them make some decisions in the shop and how things should be run. I think this is one of those examples I can see. And thinking back to my earlier days on SWMA, maintenance of this high dollar equipment is always a challenge. So, the timing is I think, not exactly right. But I think that we’ve raised the question, and I think that it probably could be better under emergency procurement versus sole source. But then now, we’re debating what’s an emergency and if it was timely for staff to get work done. I don’t really want to debate that too much further. I think in this case, maybe we should put this behind us, but not forget about it, and work closely with staff, both Randall and our legal staff either in-house or otherwise, to be sure we stay on top of these details day to day, but it’s not going to be easy.”

MOTION: Commissioner Chavez moved, seconded by Commissioner Holian, to approve Item VI(F).

DISCUSSION: Councilor Rivera said, “I don’t disagree with you Commissioner. I think that they did the work, they do need to get paid, but I think we need to do it in the appropriate fashion, and I don’t think we’re doing that right now. I think listing it as a sole source is the wrong way to do it. There are other ways, through the emergency clause, or through waiting to bring it to this Board, and I think it needs to be done properly.”

Acting Chair Ives said, “One thing again, I profess ignorance when it comes to the emergency circumstance and how that affects capacity under the Procurement Code, because leaning on my own background and experiences in the mining area where you have a multi-million dollar machine that is a production unit which brings in revenues of millions of dollars a day in the coal mining context, where any hour that it is down is a significant impact. That leads me to ask Counsel to perhaps give us a primer on the interaction of these issues, because I am a little unclear. And I think we’re hearing that everybody certainly would like to do it right, and we’re not quite sure how to do it right in that context, and that will

allow us, and staff to be on the same page when it comes to any future activity. But, I accept what Randall says which is that there's been a standard operating procedure that a piece of equipment was broken went to the manufacturer, a logical place to get repairs and parts, to get the job done and it's back up and running."

VOTE: The motion failed for lack of gaining a majority vote, with Commissioner Holian, Commissioner Chavez and Commissioner Ives voting in favor of the motion and Councilor Rivera, Councilor Dimas and Commissioner Mayfield voting against.

Acting Chair Ives pointed that we have an outstanding expense, and somebody needs to get paid who has done the work. And if we don't pay it, there are other downside consequences and that your not paying it is not where we want to be in any event.

Commissioner Mayfield suggested we could retitle the caption as an emergency procurement, and he would defer to counsel, but by no means he thinks this is sole source.

Mr. Miller said he would be happy to do some research and clarification, as Acting Chair Ives asked, about the relationship between emergency procurement and sole source, and give a more thorough explanation to the Board next time. And we can retitle it on the agenda for further discussion. He thinks this seems like a reasonable idea.

Councilor Rivera said, "Even if emergency purchase does not fit into the category of this, it's still under the State Price Agreement, which is a different option than sole source, so there are two options when bringing it back. I do believe they need to get paid. They did the work, but there's a better way to get it through the process."

Acting Chair Ives said perhaps we could charge counsel and the Director to re-examine bringing it forward, and put it on the agenda for the next meeting, and it sounds everybody agrees these people need to be paid, we just want to do it right. So if we could deliver that message to the vendor that would be fabulous.

Councilor Chavez said he would withdraw his motion.

Ms. Helberg asked if the motion was defeated on a vote of 3 to 3 and failed to gain a majority, or was it defeated on a 3-2 vote.

Acting Chair Ives said it was a 3 to 3 vote.

Ms. Helberg said then it failed to attain a majority, and Acting Chair Ives said this is correct.

Ms. Helberg said then Councilor Chavez is withdrawing his motion.

Acting Chair Ives said that would be a moot point, and it can be reflected as a tie, and the Chair has agreed to renote with direction to staff.

Mr. Miller said, "In the case of a tie vote, which is somewhat peculiar to SWMA, I think the matter goes to arbitration, so it may be better to have the motion withdrawn, and the tie vote on the record that we need to act further on without the Board.

Councilor Chavez said he would withdraw his motion.

Mr. Miller said the reason it goes to arbitration is because of the split between the City and the County on a tie vote.

Ms. Helberg asked Council how to withdraw a motion which has already been voted on.

SUBSTITUTE MOTION: Commissioner Mayfield moved, seconded by Councilor Rivera, to postpone this item to the next meeting of SWMA.

VOTE: The motion was approved unanimously on a voice vote.

(G) REQUEST FOR APPROVAL OF ANNUAL FINANCIAL REPORT FOR THE YEAR ENDED JUNE 30, 2012.

A Memorandum January 16, 2013, with attachments, including *Financial States and Report of Independent Certified Public Accountants*, for the Santa Fe Solid Waste Management Authority, dated June 30, 2012, prepared by Atkinson & Co., Ltd., to the SFSWMA Joint Powers Board, from Randal Kipperbrock, Executive Director, is incorporated herewith to these minutes as Exhibit "7." Please see Exhibit "7" for specifics of this presentation.

A copy of a Statement on Auditing Standards 114 letter, dated December 3, 2012, to the Board of Directors, SWMA, from Atkinson & Co., Ltd., is incorporated herewith to these minutes as Exhibit "8."

A copy of *Financial Statements Walk Through*, an agenda for the Audit, submitted for the record by Martin Mathieson, is incorporated herewith to these minutes as Exhibit "9."

Martin Mathisen, Atkinson & Co., Inc., said they performed the audit for SWMA for the year ending June 30, 2012. He said the State Auditor approved the audit 10 days ago, so it is public information, and he has final copies for the Board.

Mr. Mathieson reviewed the *Financial Statements Walk Through*. Please see Exhibit "9," for specifics of this presentation.

Mr. Mathisen said, regarding the 114 letter, there are some required sections he has to put in, and there is some required wording that we all use in order to make this letter of most use. He put some sections in boxes to call attention to them. Mr. Mathisen reviewed Exhibit "8." Please see Exhibit "8" for specifics of this presentation.

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Mr. Mathisen said there is only one finding which is in the back of the financial statement on page 36. Please see Exhibit "7" for the finding.

The Board commented and asked questions as follows:

- Commissioner Chavez noted, "Sales of Recyclable Goods," and asked where is a list of goods that we're selling – basalt rock.

Mr. Kippenbrock said it is the sales of recyclable goods at the Transfer Station.

- Commissioner Chavez asked, "What about the basalt rock and everything else."

Mr. Kippenbrock said, "It's not related to this one here."

- Commissioner Chavez asked about the Finding.

Mr. Kippenbrock said, "When we opened the sales of recyclables in February 2007, and what we have to do, we normally find the highest buyer for the material, depending on the market. Some vendors provide us purchase orders, others will rely on our bill of lading, basically like shipping weight, etc. When we received the check we matched it into the spreadsheet based on the BOL, like BOL 1000, 1001 and so on, the vendor the weight and so on. Sometimes they go off their weight rather than ours, they have [scales in] their yards, so it is give and take on that. What we have been doing since 2006, and it was identified in the past audit, when we receive the check, the money, we clear that part out, for that particular load. However, what we didn't do in this particular case, what they're referring to, every June 30th how many of those loads were still pending for payment. And we couldn't identify how many were pending for payment. When the audit comes around in October, more or less, those are ready to receive payments. But we couldn't go back and say, June 30th, we had X number of dollars still pending that are considered earned revenues. So from this point forward, every June 30th, we will look at the spread sheet, make that determination that that amount would be considered earned revenue, and get that recorded into the audit report. That is my understanding of what went on there."

- Commissioner Chavez said then the basalt is separate because it is a by-product of the [inaudible]. That's being done by a private hauler and then they're selling it at market at whatever the going rate is.

Mr. Kippenbrock said, "Right. That is a little different, because everything gets weighed out at the gate, so every month we send an invoice to Delhur Industries for that material for the royalty payment, and we have that recorded."

- Commissioner Mayfield said the audit looks really good, and the findings aren't bad, and we can clean that up so we get that accountability.

- Mr. Mayfield said, "I'm going to go off topic a little bit, because we have our auditor sitting in here. That prior discussion that you just heard going on, are we going to be in trouble for an audit finding next year."

Mr. Mathisen said, "First of all it's not resolved. If it turns out that there was a violation of the Procurement Code, that would be a finding. And I have been exposed to that on top of it. I will say that it's kind of a complex situation, so the legal minds for the County and the Authority can advise, and I would give some weight to whatever they said."

- Councilor Chavez said, "The finding on the tipping fee, was there iss a concern that we have to do that by statute, by ordinance, when we do increase the tipping fees. So was that your concern."

Mr. Mathisen said, "There was no concern. I was just saying that was a factor that impacted operations. The tonnage into the Landfill has decreased a little bit in the last 5 years or so, as construction in the Santa Fe area is less. That seems to be a driver of how much goes to.... and so, that's kind to balance, so they said, well we need to raise the fees per ton. If there is going to be less tons, then let's raise the fee just for financial prudence to bring a little bit more for what we're doing, based on the results. So that resolved. That was a factor that was in play for this year."

MOTION: Councilor Rivera moved, seconded by Commissioner Holian, to approve Item VI(G) the Annual Financial Report for the year ended June 30, 2012, as presented.

VOTE: The motion was approved unanimously on a voice vote.

Acting Chair Ives thanked Mr. Mathieson for the presentation.

Mr. Mathieson said it was a good audit report and a good entity.

(H) REQUEST FOR APPROVAL OF RESOLUTION NO. 2013-01. A RESOLUTION DETERMINING REASONABLE NOTICE FOR PUBLIC MEETINGS OF THE SANTA FE SOLID WASTE MANAGEMENT AGENCY [AUTHORITY].

Randall Kippenbrock, Executive Director , presented information regarding this matter from his Memorandum dated , 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "10." Please see Exhibit "10" for specifics of this presentation

MOTION: Commissioner Holian moved, seconded by Councilor Dimas, to adopt Resolution No. 2013-01, as presented.

VOTE: The motion was approved unanimously on a voice vote.

(I) DISCUSSION WITH POSSIBLE ACTION TO PROPOSE AND SUBMIT FOR APPROVAL TO THE CITY OF SANTA FE AND THE COUNTY OF SANTA FE, AN AMENDMENT TO THE CITY/COUNTY LANDFILL JOINT POWERS AGREEMENT PROVIDING FOR THE APPOINTMENT OF ALTERNATE BOARD MEMBERS.

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated January 14, 2013, with attachments, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "11." Please see Exhibit "11" for specifics of this presentation.

Mr. Miller said, "Since this item was put on the agenda, the County has prepared an amendment which is going to the County Commission at the next meeting, and presumably after that, It will go to the City Council. So this really is more of an advisory for the Board, because this Board doesn't approve the amendments to the JPA Governing Body. He said he can foresee no action would be need on this. He said the amendment would allow the appointment of alternate Board members by the City and County.

Acting Chair Ives asked how the process would work, and the number of alternates.

Mr. Miller said he hasn't seen the amendment, but believes it would be one alternate appointed by the Board of County Commissioners and one alternate appointed by the City Governing Body.

Acting Chair Ives asked, in terms of when the alternate would be authorized to attend as a member of the Board, is it simply a matter of convenience to make sure we have quorums. He said he is trying to understand the rationale.

Mr. Miller said he hit on the main point, which is that at times it is difficult to get a quorum and it would be helpful to the Board to have that potential.

Commissioner Chavez said it makes sense. He said, "I think, as the alternate, which I think I'm the alternate on one or two of the County Board, my question has always been the notice, the lead time, because you may have scheduled something already. So, I think that for the County, I'm understanding that we do have alternates as a standard practice, but in this case, Commissioner Mayfield, is that not the case, do we not have the alternates."

Commissioner Mayfield said, "This is my understand and this is why I ran into a little frustration, because I was out in December for this Board in particular. I, along Commissioner Holian and Commissioner Vigil.... and I have been on the Commission for 2 years and month now.... have always been SWMA members. Since I've been here, Commissioner Robert Anaya has always been an appointed alternate member of this Board. And it has been our protocol here at the County, we've had Board members assigned, and we've had our agreements with each other, how we appoint ourselves to Boards. And we've also had alternates appointed. So when one of us can't make a Board meeting, we will send them emails, saying we can't make the board meeting, can you attend. We don't ask each other how we take our positions on the board when we attend as an alternate, is how we take our position on the Board. But we will give that courtesy to one another – can you make a Board meeting, if we can't, they would

show up as the alternate. So Commissioner Anaya showed up to a Board meeting the other night, and he was told, what are you doing here. You can't vote, you can't do anything. It's like, wait a minute, I'm the alternate appointed by the County to SWMA. So Mr. Ross, and I'll ask Mr. Ross to speak on this for one second. So, we're just asking to re-ratify this. As far as the County is concerned, unless I'm told differently right now, the County has always taken the position that we have alternate members. I was now told, such as the BDD, we have participation on the BDD, the BDD has an alternate in our JPA, so we have that. As a matter of fact, I think the BDD affords maybe two alternates. The NCRTD has two alternates. This Board, what I'm being told now, the SWMA Board does not afford that in our JPA. So I think that's what we're asking for, some ratification of the JPA. Respectfully, I'm going to defer to our County Attorney, Steve Ross, because he may have a little different thought on that from the County's perspective. I would really like to hear Mr. Ross's thoughts on this."

Steve Ross said, "I think you said it very well, and the County has historically appointed alternates for this very Board, and believes that was appropriate. At least our intent by the people responsible for drafting the amendment, is consistent with the action the Board of County Commissioners has taken in appointing an alternate to this Board for this year. So it should be a simple, technical amendment. I think there's a few words that should clear it, but those can be added from the people from the City and County side. So unless there's concerns, along the lines of those raised by Councilor Chavez, that's what will happen."

Commissioner Chavez reiterated it makes sense and we'll just have to work on scheduling, and things will fall into place.

Commissioner Mayfield said as far as the County is concerned, we will attend the meeting, but if not we'll send an email to Lisa Roybal in the County Manager's Office and to our colleagues telling them can't attend and asking them to attend. If they can, there might just two of us attending, otherwise, the alternate will attend.

Acting Chair Ives said he is unaware that the City appoints any alternates, but would be happy to consider it in due course and take it before the Council.

Commissioner Holian said she is fine with all of this.

Acting Chair Ives said he was present at the meeting where Commissioner Anaya came, and was sitting next to him on the dais. Commissioner Anaya spoke with Commissioner Vigil, and then stood up and was gone. He said, "I would certainly say that any County Commissioner or City Councilor wanting to attend these meetings is always welcome, and it's good to get clarity on the alternate process so we don't have that circumstance. I was hoping he was going to stay for the meeting."

Commissioner Mayfield said he is a BDD alternate, and he is able to attend as well as to comment, although he doesn't vote.

Acting Chair Ives said that is the case with the City Committee meetings. The Councilors sit at the front and are allowed to make comments for the record.

Acting Chair Ives said no action is necessary by this Board at this time.

(J) STATUS REPORT AND POSSIBLE ACTION ON THE JANUARY 10, 2013, COMMUNITY MEETING AS PART OF THE CAJA DEL RIO LANDFILL PERMIT RENEWAL AND MODIFICATION.

A Memorandum dated January 14, 2013, with attachments, to the SFSWMA Joint Powers Board, from Randall Kippenbrock, Executive Director is incorporated herewith to these minutes as Exhibit "12.

A copy of Santa Fe Solid Waste Management Agency *Caja del Rio Landfill Permit renewal and modification, Public Comments from the community meeting*, of January 10, 2013, with attachments, is incorporated herewith to these minutes as Exhibit "13."

Mr. Kippenbrock introduced Kelly Collins, CDM Smith. He said she attended the community meeting on January 10, 2013, and will give an overview of the community meeting. He said, at the end of this discussion, we are recommending that CDM Smith continue with the preparation for the Landfill Permit and modification application. He said we also will recommend CDM Smith apply the Option H-3, as the design criteria for the lateral and vertical expansion of the landfill.

Ms. Collins presented information from her Memorandum of January 17, 2013, to Randall Kippenbrock, Executive Director of SWMA, regarding the Community Meeting Summary – Permit Modification and Renewal Application which is in the Board packets. Please see this Memorandum for specifics of this presentation.

Ms. Collins reviewed the comments from the community meeting. Please see Exhibit "13," for specifics of this presentation. Ms. Collins noted these comments and responses will be placed on the City's website. Mr. Kippenbrock assisted Ms. Collins by pointing out the subject property and proposed expansion on enlarged drawings.

At this time the presentation was interrupted to consider Items VIII(A) and VIII(B) as follows. Following the completion of those items the Chair returned to Item VI(J) and the rest of the agenda

MOTION: Commissioner Holian moved, seconded by Commissioner Mayfield, to reconsider the previous approval of the agenda, to interrupt the presentation and hear Item VIII(A) and VIII(B) at this time, and then return to the presentation following hearing these items.

VOTE: The motion was approved unanimously on a voice vote.

VIII. MATTERS FROM THE BOARD

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated January 14, 2013, to the SFSWMA Joint Powers Board, is incorporated herewith to these minutes as Exhibit "14.". Please see Exhibit "14" for specifics of this presentation.

(A) ELECTION OF CHAIR AND VICE-CHAIR

MOTION: Commissioner Mayfield moved, seconded by Councilor Rivera, to elect Councilor Peter Ives as as Chair and Commissioner Chavez as Vice-Chair, of the Santa Fe Solid Waste Management Agency Joint Powers Board.

VOTE: There were no further nominations and the motion was approved unanimously on a voice vote.

(B) DISCUSSION WITH POSSIBLE ACTION ON CONTRACT SERVICE (PRICING) DELIVERED TO THE SFSWMA FACILITIES IN A QUANTITY OR CONSIDER WHICH MERIT SPECIAL CONSIDERATION THROUGH A CONTRACTUAL AGREEMENT UNDER 2012 FEE ORDINANCE (COMMISSIONER MAYFIELD).

A copy of a spreadsheet *Brush to Caja Jan. 2012-Dec. 2012*, is incorporated herewith to these minutes as Exhibit "15."

Commissioner Mayfield said, "In 2011 the Board took action to afford some credit to the City, and rightfully so, for waste material the City had at Siler Road from the street sweeping. He said at the time, the City might have received an environmental fine for not getting all that stuff out of the old solid waste station. So the Board made a decision to waive the tipping fees, and correct me if I'm wrong on this Mr. Kippenbrock, the Board made the decision to waive the tipping fees for the City of Santa Fe so they didn't get that environmental hit, so we took that waste at SWMA. I did though preserve the record, to say I would like due consideration in the future so Santa Fe County could get a fair share of credit. I said I would bring that up at a later date. The later date has passed, and I just don't want it to get any later. So I have brought this back so that Santa Fe County can receive a fair share of credit to alleviate some of our tipping fees."

Mr. Mayfield continued, "I was looking at the minutes, but I was hoping that Mr. Kippenbrock could tell us what those tipping fees credits were, and I think it was estimated here, now that I'm looking through the minutes, it says that payment was about \$100,000. I thought it was about \$200,000 or \$250,000 of what we talked about. I was hoping that you would have some records of what those tipping fees were back then, Mr. Kippenbrock. But I guess I'm just here advocating for the County of Santa Fe, that we do receive a fair share or credit or tipping fees. That's what I'm bringing to the attention of this Board. Mr. Kippenbrock, I don't know if you have anything to add on that."

Mr. Kippenbrock said, "This particular item that he discussed occurred back in August 2011, when the City of Santa Fe Environment Department approached us about a huge stockpile of sweeping material

that had accumulated over time. And we brought that action up to the Board, and it turned about to be approximately 6700 tons of material. And rather than being at \$37.50 tipping fee, that was the current tipping fee at the time, we rolled it back to the original tipping fee of \$25 per ton. The net savings was approximately \$100,000 to the City. The Agency gained about close to, I'm just going to just speculate, about \$180,000 in revenues based off that. The agreement between the Agency and the City, was that the City would continue to transport the sweeping material in a timely manner rather than get themselves in the same situation that they had. So the question remains, did they receive a special consideration for the reduced rate from \$37.50 to \$25 per ton, and it was approximately 6,700 tons that resulted in almost \$100,000 in savings for the City. This occurred from the latter part of August to the middle of October when they were able to move that material out. Once they got that pile cleaned up and removed, then it went back to the tipping fee, whatever it was, \$37.50 and so on."

Mr. Mayfield said, "So again Mr. Chair, my appeal to this Board today is to report that same credit and I tried to preserve that back then to the County side."

Commissioner Chavez said, "Commissioner Mayfield, maybe we need a policy statement that would be part of Randall's scope of services, so we know how to anticipate and how to handle it when it comes up again."

Commissioner Mayfield said, "And Commissioner, I agree with you, and I think that that was figured out, that he, Mr. Kippenbrock, would just ask the City, and Mr. Kippenbrock asked the City, 'Let's not get behind on the sweeping, let's just take it immediately, or don't stockpile them and let them set there.' But again, my feeling, I did try to preserve this on the record back then, that there will be a time when I come to the Board on that. What's right is right, and what's fair is fair. We're jointly on the Board together, and I do want to preserve the full credit for the County, if it's \$100,000 or if it is \$185,000, because we are in this joint venture together, that all taxpayers should receive the same credit. And the Santa Fe County taxpayers as a whole should receive the same credit too. And I did try to preserve that record. I have the minutes here, and I thought we were getting further and further away from this. Here we are in calendar year 2013, and the further we get away, and that's what I'm asking that this come back to this Board today, asking for that consideration of this Board to give Santa Fe County this credit also."

Councilor Rivera asked, "Commissioner Mayfield, is there something specifically the County is looking to dispose of, or are you just looking to memorialize this some way, so that if it happens in one year or two years, at lease we have a record of this somewhere."

Commissioner Mayfield said, "And Mr. Chairman, Councilor, I mean that's just great. I guess it's just what's going on with the County right now, and it's just always been my position and one of the fundamental reason I sit on this Board. I'm concerned with the tipping fees at SWMA. When you talk about it, I'm totally concerned with the tipping fees. We heard a presentation here from our auditor, well if we can figure out how to get more volume there, you know we've got a concern about the tipping fees. I want to try to go over those tipping fees out there. I've continually brought it up. I'd like to bring Espanola here to the table. I'd like to bring Los Alamos to this table. We at Santa Fe County, we're debating now, conceptually of what we're doing with the transfer stations...."

Chair Ives interrupted saying, "I know Councilor Rivera has to depart soon."

Commissioner Mayfield said, "Fair enough. Fair enough. But I guess we haven't had a lot of discussion about what is going on with our transfer stations. And some of that discussion has arguably been maybe consolidation of some of our transfer stations. And some of that boils down to, in my mind, of the cost that we're paying for these tipping fees up there, at the SWMA. In fact, I fundamentally believe that. And we're putting a lot of material at SWMA with our green waste and everything else. So, yes I definitely would like a credit going right now to our Public Works Department for our share, because that can help... we have our budget considerations. And we're going into a budget right now, and I think that for this County, any money right now, is for Public Works, if that could help preserve the existence of the transfer stations within Santa Fe County, if it's the La Cienega Transfer Station maybe staying open. If it's the Nambe Transfer Station, if it's the Tesuque Transfer Station. If I can do that for the constituency I represent, I'm going to do it. I'm going to try my hardest to do it. So that's kind of my appeal to all of you right now, and I do believe that Santa Fe County's entitled to its fair share. I don't know if that answers it, but that's just what I'm trying to do."

Chair Ives said, "And I'll speak on my behalf is, what's fair for the goose is fair for the gander. I know nothing about the prior history or the instance, other than what's been said here and it sounds like it does exist, but I'd love to talk to City staff to make sure there's not anything I'm missing, because they would have been involved over the course of time. So if it would be all right to have it as an agenda item at the next meeting for action at that point in time, that might be a possible course of action."

Commissioner Chavez said, "So I think I see two points that your raising. One is sort of the interagency arrangement, in depositing larger volumes of material into the landfill and the tipping fee associated with that. And just in general the tipping fee for the general public and the cost they incur in using the BuRRT and the... Well really just the BuRRT because they're not paying... I guess they are paying somewhat for the transfer stations. They're paying a monthly fee, and that fee is reflected in the permitted fee basically. But your are questioning the overall rate structure."

Commissioner Mayfield said, "Yes, it's a little different, I mean as far of the issue of me wanting to ask for consideration of other entities to be able to dump into... something that I've been continually asking is, let's get Espanola and Los Alamos, to at least talk to this Board. It will have to go to the independent bodies at the City and County too."

Chair Ives said I'm focusing on the credit.

Commissioner Mayfield said, "I think the credit is down [inaudible]. That's just in fairness. But the other issue, Mr. Chairman that I asked to be noticed and I think it kinda is. But there was also a closure, and I think this is very important for the County, and I have to do this to stand up for the County. The County has a good amount of green waste we've been trying to dispose of for some time, and we're doing that. There was a time when BuRRT was closed down from accepting green waste, and Randall, we have those dates. We asked for those dates for green waste. The County was still pushing green waste to the BuRRT from Eldorado and Jacona. But, we pay and I don't know what the City does, but we at the County pay a lesser rate at the BuRRT, and Randall, that's \$27 per ton."

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Mr. Kippenbrock said, "No. Green waste is \$20."

Commissioner Mayfield said, "Okay \$20. This is a question, it's not asking... Randall at Caja del Rio are we paying the \$40 per ton for tipping at Caja del Rio."

Mr. Kippenbrock said yes.

Commissioner Mayfield said, "So my question to the BuRRT is do you tip off the County, and if it is, then shame on us. Because when the BuRRT was closed and we were then instructed to take it to Caja del Rio, were we paying \$20 per ton for green waste, or were we paying \$40 per ton."

Mr. Kippenbrock said, "There are two parts to that question, and it is \$40 per ton. It is my understanding that some of the material at the Jacona Transfer Station was too dirty to be considered as mulch."

Commissioner Mayfield said, "Fair enough, well, let's say the part that was not contaminated. What were we being charged when BuRRT was closed down through no fault of our own and we were asked to take it to Caja del Rio."

Mr. Kippenbrock asked the BuRRT Manager, Mike Smith, to comment on that, because he's more familiar with the history that occurred back in 2012.

Mike Smith said, "I've got some notes that may kind of help everybody now, I think. Back in early March, Mr. Barela and I had talked about a program, including updating Jacona Transfer Station, and we talked a little bit on the third of March, he and I had emailed, and potentially talked on the phone as well. I don't have any record of that, but that our grinder might be down for about 2 months and we need to direct that material to the Caja del Rio Landfill instead. Actually the material that is coming in at that time is very old material and over time had become a dirty, nasty, muddy material not made for grinding for that very reason, some trash in it as well. But at the time Mr. Barela and I spoke, pretty much that program was over, so we really accepted, I guess, correct me if I'm wrong, I think we have accepted most of that project material at that point."

Mike Smith continued, "Also, during that, I think Mr. Barela had already notified his supervisors to direct those materials that were clean that were not contaminated, green waste, for them to make that decision when they were loading those, to whether they should direct it to the Landfill or with BuRRT. So, that was their decision on that, so we probably got, by mid-month, that project was pretty much over with at that time. So I think whatever went to the respective disposal facilities, probably was appropriate. I think it's safe to assume that."

Mr. Smith continued, "Again in mid-June, Mr. Barela and I had a little bit of an email exchange, kind of giving a heads up that there may be a large volume coming their way. In looking at the volumes which were delivered to BuRRT that month, I think that particular project never came to fruition. My opinion would be, that was a non-issue, but I did at least want to bring up the conversations we did have. As some of you may know, we had a fire on the beast, that's the grinder, at the end of July. And so pretty

much on July 3rd, I did mail Olivar and just said, until further notice, what had happened is our grinder had been down for a while, and material was kind of building up. And we didn't have room to bring it, not able even to get larger trucks in and out. Pickup, surely a guy could get in and unload his pickup, but to get the larger trucks in there, you can say that was incapable of even dumping. That's how much we had run out of room."

Mr. Smith continued, "I think this went on for 2-3 weeks. I don't have any emails to verify those dates or anything, but we did at one point in time, suspend service. I don't know what went to the landfill and what didn't make it's way. I don't know if the County sat on that material or not. All I know is that for about a two-week period, the best of my recollection is that we did temporarily suspend service."

Commissioner Mayfield said, "And I want to say, back to the 3 week period, the County had to pay more for their green waste. That's the green waste that we were charged by our constituencies to clean up – County roads, all of those trees. We have to dispose of that. We can't stockpile it, and if it can't go to the BuRRT because SWMA is down.... We just talked about an emergency requisition. And we're charged either to keep it where you guys have to keep it, or take it to Caja del Rio. We still have to do that for our residents, and if we are charged higher tipping fees to do that, I think there should be some offset credit."

Commissioner Mayfield said, "Now, I'm going to circle back to the credit that we gave to the City. We have an environmental catastrophe sitting out at Eldorado and also Jacona. We were sitting on such a waste nest out there, and we needed to clean it up. So we afforded consideration to the City of Santa Fe to get all that salt and everything else off Siler Road. And I am going to be disappointed if we don't get that same consideration. We put a lot of money into the SWMA facility in moving all that green waste to Caja del Rio. And I'm going to ask this of our staff, 'Olivar how much green waste material from Jacona and Eldorado did we move out to SWMA.'"

Mr. Barela said, "Randall has a spreadsheet that I can share with you [Exhibit"15"]. This spreadsheet was generated for the calendar last year. From Jacona, it looks like we have 985 tons, and Eldorado about 644 tons."

Commissioner Mayfield asked if we are still moving tonnage out there.

Mr. Barela said, "The issues you're talking about, the environmental issues have been remedied, we're just moving the green waste coming in day to day. And that's pretty much been happening since August and September.

Commissioner Mayfield there is still green waste in Jacona, it's not used up. There is some staying there.

Mr. Barela said, "Mulch maybe. The mulch at Jacona is used by the Pueblo of Pojoaque to do composting at the sewer plant, so they're moving that out of there."

Commissioner Mayfield asked, "What are we paying SWMA for those nine hundred and something tons. What are we paying."

Mr. Barela said, "Actually there are two rates. Last fiscal year it was \$37.50 at Caja and \$40 per ton."

Commissioner Mayfield asked the total dollar amounts, and Mr. Barela said he didn't have that information with him.

Mr. Barela said, "I might add that this spreadsheet was made to keep track of the waste that was going to Caja, and the only reason green waste would be going to Caja from any of our transfer stations was to remedy the environmental issue in Jacona, or there wasn't any space at BuRRT to dump."

Commissioner Mayfield said, "I'll just close with this. Santa Fe County had its own environmental issues to deal with, also. We gave consideration to the City. I also have constituency in the City. The financial consideration. That's all I'm asking this board to consider."

Councilor Rivera said there was a recommendation to have this brought up at the next meeting. He said, "Could we have a City presentation on exactly what happened at Siler, so I can understand what the issue is with the salt, what happened, about the whole thing."

THANK YOU TO STAFF

Commissioner Holian said she would really like to thank Randall and staff for their professional management of Caja del Rio and BuRRT. She said, "I think that the Audit Report really showed what a good job is being done in managing financially, and also the comments from the people at the community meeting. I was really impressed, so I just want to thank you for last year."

MISCELLANEOUS

Commissioner Chavez said he has had concerns expressed about what people do with their horse manure, and that it is ending up in our waterways, arroyos and open space. He doesn't know if this could be included as part of the green waste program at the transfer stations. It is being accepted at BuRRT and at Caja del Rio.

Mr. Kippenbrock said they take clean manure as part of the green waste program at BuRRT, and the tipping fee is the same as for the green waste – \$20 per ton.

Commissioner Chavez asked what "clean" manure means.

Mr. Kippenbrock said it is manure that is not contaminated, for example, manure from race tracks with sharps and needles.

Ms. Merrill said they have to be able to grind it, because it is processed or mixed in with it, and people collect that part of the compost, and you don't want contamination from the horse track. It should be clean and virtually trash free.

Mr. Kippenbrock said if the person wants the \$20 per ton tip fee, it needs to go to BuRRT as part of the Green Waste Program.

Councilor Chavez said he hears people put it in plastic trash bags and in the regular trash bins.

Chair Ives said a future agenda item would be an exploration of the different types of waste, including this one.

At this time Ms. Collins resumed her presentation.

The Board commented and asked questions as follows:

- Commissioner Chavez asked if the expansion to the BLM will be only vertical.

Mr. Kippenbrock said it will be both lateral and vertical, noting we are permitted to go down 70 feet, and based on the width of the BLM areas, will try to take it down as far as possible in accordance with the design criteria.

- Commissioner Mayfield said, "I have been told time and time that we are not doing sand and gravel operations out at that place. Our attorney stepped out, so I will wait until he comes back. Do we need a permit from Santa Fe County for sand and gravel operations out there. Are we doing permitting with Santa Fe County."

- Mr. Kippenbrock said, "As an integral part of the landfill, we do have an operation there."

- Commissioner Mayfield asked, 'Are you receiving permitting from Santa Fe County for your sand and gravel operations.'

Mr. Kippenbrock said at the current time, we don't know there are any requirements for that.

- Commissioner Mayfield said, "Under our current County Code, there are requirements for sand and gravel, but we'll leave it for our attorney. There was a question by a resident, asking about sand and gravel operations out at the Caja del Rio. I think CDM Smith isn't doing anything for a permitting for sand and gravel operations. So what are we doing for sand and gravel operations out there."

Mr. Miller said he would defer to Randall.

- Commissioner Mayfield said, "I'm going to refer to you please."

Mr. Miller said, "It is my understanding that SWMA does not need a sand and gravel permit, because it is part of the operations of SWMA. And that's something that has been an issue for several years. It's been considered by the Board and by the County Commission, and it's never been determined that the Agency needed to get a sand and gravel operations permit."

Commissioner Mayfield said, "I believe under the current County Code, and I stand to be corrected, I believe that you need a permit from this County for sand and gravel operations. I sit on this authority also, so I believe SWMA needs a sand and gravel permit. And somebody can correct me if I'm wrong, but I really believe that. I want to make sure SWMA's not in violation of any laws."

- Commissioner Chavez said, "You would think that would have been a finding in our audit at some level, because... I thought that in his presentation he did say something to the effect that the Agency had met all permitting requirements, but maybe this is one that may have fallen through the cracks."
- Chair Ives suggested as an item for the next meeting, we have a report, hopefully from counsel, who, in the interim would have an opportunity to speak with the County Attorney on that issue, and we can have a more definitive answer to that question. He said, "I don't think anybody on this Board cares to be operating inappropriately. It sounds like an issue that has been taken up and answered informally if not formally, but I would be happy to take a formal look at it, so if we could include that as an agenda item on our next meeting, and hopefully look to a report on the issue."
- Commissioner Mayfield asked how do we sell our basalt and the aggregate.

Mr. Kippenbrock again explained, "The basalt operation for started in 2001. The purpose of the basalt operation is to remove the rock that was prematurely near the surface to get down to the permitted depth. From 2001-2006, for the first 5 years, it was done by Santa Fe Aggregate. At that time, we went out for an RFP and we selected Delhur Industries. In that agreement, it is an 8 year construction agreement, to help us to blast, remove, excavate the rock, stockpile it, also to produce aggregate, as well as to sell for construction. Those are the three components of that contract. The portion about the aggregate to commercially generate aggregate, at their expense they would go ahead, crush the material, sell at a price considered a market price. Of that, we receive \$1.50 in royalty. "

Mr. Kippenbrock continued, "In August 2009, we received a call from the BLM about the sale of basalt being considered a mineral right. We felt at the time, since the operation had gone on since 2001, they were referring to basalt that was being removed from the BLM portion. They said no, it is actually the basalt that is under the two pieces of property that we bought from the Baca and Montoya family. That rock, they consider to be BLM mineral rights. We have the surface rights, but not the mineral rights. So, nevertheless, from 2001 to 2010, we generated approximately \$438,000 and there were some penalties that involved legal fees, etc., and they were roughly

\$25,000 to \$30,000, more or less. From that point on, we entered into an agreement with the BLM for any future sale of basalt that they would receive 69¢ per ton through the gate of the \$1.50 that we do collect from the contractor.”

Mr. Kippenbrock continued, “That agreement will expire in 2014, and the Board will have to decide what direction you want to take. Do we enter into a lease agreement with the current tenant or the current operator, or do we go out for bids and see what we can get, etc. We’re hoping the bid itself for the next term will be more or less perpetual, through a lease agreement, whoever is going to be on our property, in exchange for continuation of royalty. The rock that is out there that was generated from Cell 4B was estimated to be approximately 10 year. However, due to the recession, that has not been the case. It’s been very slow. Every now and then we do see opportunities to help out on major projects such at the overpass at 599, and CR 62. This material will also be used for asphalt related for the Caja del Rio road improvement, etc. That in a nutshell, is the situation with the asphalt material, the stockpile, how it’s been done, the contractor, etc. We invoice them monthly and receive revenue for that.”

- Commissioner Mayfield asked if we can we use that material on City and County roads.

Mr. Kippenbrock said his understanding is the material is available for sale. It is a matter of the City, County and the Agency to work out a price agreement.

- Commissioner Mayfield said, “So the contractor that is extracting this, whatever agreement you have, they’re able to keep it and we have to buy it back from that contractor to be able to use it.”

Mr. Kippenbrock said no.

- Commissioner Mayfield asked for a full blown report at the next meeting, commenting he wants to fully understand this.

- Commissioner Mayfield said the public has concerns as to whether we have permits. He asked if you [Ms. Collins] just listen to what Mr. Kippenbrock and attorney tell you.

Commissioner Mayfield asked Ms. Collins if she has to verify all of the proper permitting.

Ms. Collins said, “The scope of our contract is to develop the landfill permit for renewal. The permit was put in place in 1995. It has to be renewed every 20 years under the solid waste rules. And this is not just a simple renewal because there are some modifications which will be proposed in that permit.”

- Commissioner Mayfield said, “I have concerns that we didn’t pull the right permits. The public has concerns if we pulled the right permits. Do you [Ms. Collins] have to do your own research to make sure you’re pulling the right permits, or are you just taking the position of the Director and the attorneys that you pulled the right permits.”

Ms. Collins said, "What we're contracted to do is the permit under the Solid Waste Rules. All of the other permits that the land fill has to maintain, are separate from what I'm involved in."

Mr. Kippenbrock said there is a regulation in the Solid Waste Rule which much be in compliance with all other permits.

Chair Ives thanked Ms. Collins for her presentation.

Chair Ives asked if there is intent to take action on any matter today.

Ms. Collins said it is not in fact part of the rule and this is an additional feature that Randall has requested, to have a community meeting, even though it isn't required. There will be a public hearing at the end of the process associated with the permit.

MOTION: Commissioner Holian moved, seconded by Commissioner Mayfield, to incorporate the comments and concerns provided by the citizens at the community meeting on January 10, 2013 into the permit application.

FRIENDLY AMENDMENT: Commissioner Mayfield wants to be sure we have pulled the appropriate permits and asked this to be a part of the record. **THE AMENDMENT WAS FRIENDLY TO THE MAKER AND THERE WERE NO OBJECTIONS BY THE OTHER COMMISSIONERS.**

Chair Ives said having Counsel present at the next meeting will answer that question definitively which will be well in advance of submission of anything associated with the permitting process.

Commissioner Holian thanked Ms. Collins for her presentation. She is in support of moving forward with the packet to which we've already committed.

VOTE: The motion, as amended, was approved unanimously on a voice vote.

VII. MATTERS FROM STAFF

There were no matters from staff.

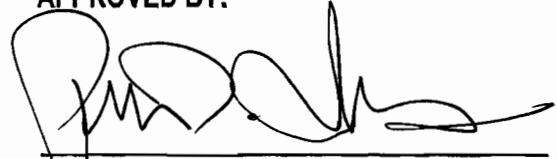
IX. NEXT MEETING DATE

February 21, 2013, at the County Courthouse.

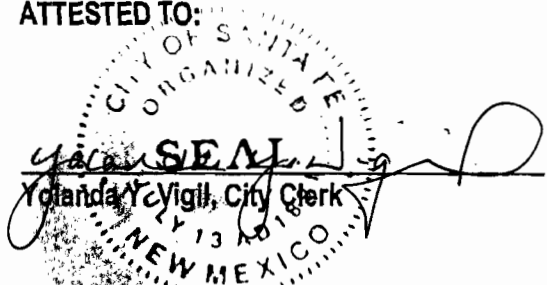
X. ADJOURNMENT

There was no further business to come before the Board, and the meeting was adjourned at approximately 3:00 p.m.

APPROVED BY:


Peter N. Ives, Chair

ATTESTED TO:



SUBMITTED BY:


Melissia Helberg, Board Stenographer