

**SUMMARY INDEX
SOLID WASTE MANAGEMENT AGENCY
JOINT POWERS BOARD MEETING
Thursday July 16, 2015**

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
CALL TO ORDER AND ROLL CALL	Quorum	1
APPROVAL OF AGENDA	Approved	1
APPROVAL OF CONSENT CALENDAR	Approved [amended]	2
CONSENT AGENDA LISTING		2
APPROVAL OF MINUTES: REGULAR MEETING – JUNE 18, 2015	Approved	2
MATTERS FROM THE PUBLIC		3-4
<u>CONSENT CALENDAR DISCUSSION</u>		
REQUEST FOR APPROVAL OF REVISIONS TO SANTA FE SOLID WASTE MANAGEMENT AGENCY'S PERSONNEL POLICY MANUAL REGARDING EMPLOYEE DRUG AND ALCOHOL TESTING POLICY	Approved w/amendments	4-8
MATTERS FROM THE PUBLIC		8
REQUEST FOR APPROVAL OF SERVICES AGREEMENT WITH FRIEDMAN RECYCLING OF ALBUQUERQUE, LLC, OF ALBUQUERQUE, NM, THE PROCESSING AND MARKETING OF RESIDENTIAL AND COMMERCIAL RECYCLABLE MATERIALS FOR THE SANTA FE SOLID WASTE MANAGEMENT AGENCY (RFP NO. 15/31/P)	Approved	9-11
APPROVAL OF BUDGET INCREASE TO 52501.520400 (REPAIR AND MAINTENANCE OF EQUIPMENT AND MACHINERY) FROM 55502.100700 (EQUIPMENT REPLACEMENT RESERVE FUND CASH) IN THE AMOUNT OF \$96,063.85	Approved	9-11

SFC CLERK RECORDED 09/10/2015

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
REQUEST FOR APPROVAL OF COLLECTIVE BARGAINING AGREEMENT (UNION CONTRACT) BETWEEN SANTA FE SOLID WASTE MANAGEMENT AGENCY AND AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) LOCAL 3999	Approved	11-16
REQUEST FOR APPROVAL TO AMEND FISCAL YEAR 2015-2016 BUDGET	Approved	16
***** END OF CONSENT CALENDAR DISCUSSION *****		
MATTERS FROM THE EXECUTIVE DIRECTOR	Information/discussion	16-17
MATTERS FROM THE BOARD	Information/discussion	17-21
MATTERS FROM STAFF	None	21
MATTERS FROM THE CITY	Information	22
MATTERS FROM THE COUNTY	None	22
NEXT MEETING DATE: Thursday, July 16, 2015		22
ADJOURNMENT		22

SFC CLERK RECORDED 09/10/2015

**SOLID WASTE MANAGEMENT AGENCY
JOINT POWERS BOARD MEETING
Legal Conference Room
Santa Fe County Courthouse
Thursday, July 16, 2015**

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 Councilor Joseph M. Maestas, Chair, at approximately 5:00 p.m., on Thursday, July 16, 2015, in the Legal Conference Room, Santa Fe County Courthouse, 102 Grant Avenue, Santa Fe, New Mexico.

II. ROLL CALL

MEMBERS PRESENT:

Councilor Joseph M. Maestas, Chair
Commissioner Kathy Holian, Vice-Chair
Councilor Patti J. Bushee
Commissioner Miguel Chavez
Councilor Signe I. Lindell

MEMBERS EXCUSED:

Commissioner Henry Roybal

OTHERS ATTENDING:

Randall Kippenbrock, Executive Director – SWMA
Angelica Salazar, SWMA
Rosalie Cardenas, SWMA
Adam Schlachter, SWMA
Danita Boettner, SWMA
Justin Miller, Legal Counsel
Elizabeth Martin for Melessia Helberg, Stenographer.

There was a quorum of the membership in attendance for the conducting of official business.

APPROVAL OF AGENDA

MOTION: Commissioner Chavez moved, seconded by Commissioner Holian, to approve the agenda, as presented.

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

SFC CLERK RECORDED 09/10/2015

IV. APPROVAL OF CONSENT CALENDAR

MOTION: Commissioner Chavez moved, seconded by Commissioner Holian, to approve the following Consent Calendar, as amended.

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

VII. CONSENT AGENDA

A Memorandum dated July 9, 2015, with attachments, to SWFSWMA Joint Powers Board Member, from Randall Kippenbrock, Executive Director, regarding Item VII(A), is incorporated herewith to these minutes as Exhibit "1."

A Memorandum dated July 10, 2015, with attachments, to SWFSWMA Joint Powers Board Member, from Randall Kippenbrock, Executive Director, regarding Item VII(F), is incorporated herewith to these minutes as Exhibit "2."

- (A) **REQUEST FOR APPROVAL OF PROCUREMENT UNDER RFP NO. 13/24/B TO WAGNER CATERPILLAR OF ALBUQUERQUE, NM, FOR REPLACEMENT OF UNDERCARRIAGE TO UNIT 1309 (CATERPILLAR D8R II TRACK TYPE DOZER) IN THE ESTIMATED AMOUNT OF \$96,063.85.**
 - (1) **APPROVAL OF BUDGET INCREASE TO 52501.520400 (REPAIR & MAINTENANCE OF EQUIPMENT AND MACHINERY) FROM 5502.100700 (EQUIPMENT REPLACEMENT RESERVE FUND CASH) IN THE AMOUNT OF \$96,063.85.**
- (B) *[Removed for discussion by Councilor Bushee]*
- (C) *[Removed for discussion by Councilor Lindell]*
- (D) *[Removed for discussion by Councilor Lindell]*
- (E) *[Removed for discussion by Councilor Lindell]*
- (F) **REQUEST FOR APPROVAL TO AMEND FISCAL YEAR 2015-2016 BUDGET.**

V. APPROVAL OF MINUTES: REGULAR MEETING – JUNE 18, 2015

MOTION: Commissioner Holian moved, seconded by Commissioner Chavez, to approve the minutes of the meeting of June 18, 2015, as presented.

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

VI. MATTERS FROM THE PUBLIC

A copy of *What would 100% glass recycling look like*, entered for the record by Joe Eiger, Eldorado Recycle, is incorporated herewith to these minutes as Exhibit "3."

A copy of the statement for the record by Karen Sweeney, entered for the record by Karen Sweeney, is incorporated herewith to these minutes as Exhibit "4."

Lisa Randall, Santa Fe Public Schools, said the Schools support the contract for Friedman. This is an incredibly exciting expansion and added items to the recycle list is exciting. She said the Schools compost 1,700 pounds of food waste daily for twelve schools. She said when they started they recycled for free, and there was no point person or education or outreach, and through those components they grew the program and are committed to it and to continued expansion.

Ms. Randall said there are also challenges. There was a lot of resistance from the leadership in the School Administration. It was a matter of changing behavior and the way we think about trash. She said the City is in the predicament it is in now because people want to do things cheaply and easily. Increasing our recycling and diversion rate is neither cheap nor easy. We have affordable rates with the City and pay 40% more for county service. She said she would advise the Board to trust your staff when they talk to you about what they have seen, heard and researched. They have done their homework, reiterating that constituents want what is cheap and easy.

Ms. Randall continued, saying she is highly educated, but she cannot touch the expertise of Ms. Padilla and the other staff members. We need real diversion, construction recycling, technology, curbside collection and automated recycling. She said automated is the way to go, commenting that glass is a non issue for the Schools. She said we should be talking about food waste, green waste and things that are marketable. She said recycling is market driven. She said she votes, and understands you are elected by your constituents, but they are not the most educated on this issue on a day in and day out basis. She said, respectfully, the City is embarking on a new venture with Friedman, with which we are not ready to deal because of your leadership. We have a lot to learn around this issue and we need to listen to the experts.

Joe Eiger, Eldorado Recycle, distributed copies of Exhibit "3." He said they are also excited about the contract with Friedman and hope it is approved this evening. This board has moved forward at a measured pace. Unfortunately, at the last County Commission meeting, an angry group of 50-60 people opposed to franchising spoke against the ordinance, and that Ordinance is now on hold. He said at the last City Public Utilities Committee meeting, staff recommendations on recycling and the budget for recycling did not advance and we don't know what the future of that is. He said we always have had drop-offs for glass, noting that mixing leads to a high level of contamination and compromises the safety of workers.

Mr. Eiger said his handout is a rough analysis of the glass situation, noting glass is a tiny fraction of the waste stream. He said in Santa Fe glass recycling participation is 56%, and it appears as if they recycle 100% of their glass, which is above the national recycling rate for glass. In Eldorado, they have a

similar rate. He noted that Item C is the recent results from Albuquerque. He said if the City goes to drop off sites for glass, after a year or two, the serious recyclers will get used to the system and do it. He said he hopes the city will make the decision to go forward.

Ms. Karen Sweeney read a statement into the record. Please see Exhibit "4," for the text of Ms. Sweeney's statement.

Chair Maestas thanked everyone for their input and participation.

CONSENT CALENDAR DISCUSSION

(B) REQUEST FOR APPROVAL OF REVISIONS TO SANTA FE SOLID WASTE MANAGEMENT AGENCY'S PERSONNEL POLICY MANUAL REGARDING EMPLOYEE DRUG AND ALCOHOL TESTING POLICY.

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated July 9, 2015, which is incorporated herewith to these minutes as Exhibit "5." Please see Exhibit "5," for specifics of this presentation.

Councilor Bushee said it says, "The policy has been clarified as being applicable to all employees," and asked if that includes Mr. Kippenbrock and management.

Mr. Kippenbrock said yes.

Councilor Bushee asked Mr. Kippenbrock if he is subject to random drug testing.

Mr. Kippenbrock said it is done randomly only for safety sensitive positions.

Councilor Bushee said she has concerns for folks who use prescribed medical marijuana, who are subject to disciplinary action, including termination. She said they may not be under the influence of medical cannabis while on the job, and she doesn't know how that works, but in some cases employees that are prescribed medical marijuana would have that in their blood stream from when they are using it for their medical condition. She asked how that works.

Mr. Kippenbrock said, "To the best of our ability, we understand that some people may be qualified to be prescribed medical cannabis. However, if they have a characteristic or behavior that what we consider medical cannabis, whatever the symptoms may be, that could affect their work. That's what we're referring to."

Councilor Bushee said, "I understand. I just thought it could be fairly subjective if someone is prescribed medical marijuana, testing of urine is somehow missing."

Mr. Kippenbrock said, "Correct. This would be subject to reasonable suspicious..."

Councilor Bushee, "Does it say that specifically. I just looked at the summary, I didn't read it."

Mr. Kippenbrock said, "Yes. Reasonable suspicious. The employees are trained on what could be considered reasonable suspicious. We bring in our Solution Group, that's usually who we hire to train the employees, and then we have a separate 2 hour training for the supervisors, how to conduct reasonable suspicious. It generally takes two supervisors or management positions to say yes and yes, this person is under the influence of something."

Councilor Bushee said, "I'm not a medical professional. I have no idea how long cannabis remains in the bloodstream. I would just hate to see someone lose their job if they're following the rules and somehow sampling.... I just wanted to be.... maybe the lawyer can clarify. If you read this, I don't know. Is there some language that is applicable across the board for conditions that apply here."

Mr. Miller said, "The key factor that allows the Agency to test for marijuana, even in situations where somebody is using medical marijuana, is that the protections in the Lynn and Erin Compassionate Use Act don't apply to the user's possession in the workplace."

Councilor Bushee said, "I understand that, but your testing is going to be urine samples, so again, I don't know."

Mr. Miller said, "So, as Randall explained, an employee won't be tested unless there are signs or indications, or some sort of reasonable suspicion that the person is under the influence of something that is impeding their work. And if that's the case, then they will be tested, and if they test positive for medical marijuana, they are subject to dismissal."

Councilor Bushee said, "Will you just explain how to address my concern."

Mr. Miller said, "Right, I hear your concern. And I think the circumstances will need to be taken into consideration. And if there is an explanation for a positive test, and the person was not actually under the influence of the medical marijuana that remained in their system, then that would make it defensible."

Councilor Bushee said, "I guess my concern came along with the reasonable suspicious and how subjective that is, and how do you build that in."

Mr. Miller said, "I think you're right, that marijuana poses a different set of concerns *[inaudible because Councilor Bushee interrupted]*."

Councilor Bushee said, "I can see how it could be used in retaliation if there were some kinds of issues. I'm just trying to protect the workers rights if they have a legal right to use medical marijuana. So I didn't know... we pay you to give us legal advice. Is there some other safeguard that can be built in somewhere for them."

Chair Maestas said, "Let me just step in. Let's turn to page 7 in the strike-through version. There is new language. Let's look at the language, '*The possession or use of medical cannabis while on the job is prohibited and may constitute grounds for disciplinary action up to and including termination.*' Councilor Maestas said that language is explicit. He said the second part is, '*Employees may not be under the influence of medical cannabis while on the job.*' So, who makes that determination – does the supervisor have the authority to make that determination, the subjective termination as to whether he thinks the employee is under the influence."

Councilor Bushee said, "They said reasonable suspicious."

Mr. Kippenbrock said, "Reasonable suspicious, by two supervisors or by two management that he is under in the influence."

Chair Maestas asked, "Is that defined in here, because the language says employees may not be under the influence of medical cannabis while on the job.... do they state reasonable suspicious, or is that language in another part."

Mr. Kippenbrock said, "Reasonable suspicious is in another area."

Chair Maestas asked Mr. Kippenbrock to direct the Board to that area.

Councilor Bushee said, "My concern. Someone who has nausea from cancer treatment, they probably, on a daily basis, need to consume cannabis. Now that may or may not affect their work product, but I just see some really gray area here and the end result is termination, if someone wants to go that far."

Mr. Kippenbrock said, "We took this into a lot of consideration, how we can address this. I think what we're trying to do is to protect the agency and not allow the employee to bring marijuana on the job site, smoke on the job site. It's not that they use the treatment at home and come to work and still perform accordingly. That's what we are looking at."

Councilor Bushee said, "I understand literally it could be interpretation, but the end result is that it's just reasonable suspicion on the part of management, and the test is a urine test which could result in someone's termination if they had a tincture or what have you in the morning. Say there's a body part that they're using it for. It could have the same systems, that you might be.... I'm just.... I feel like that there's a gray area here that is leaving some *[inaudible]* potentially vulnerable to termination. If the lawyer wants to give me an answer, actually."

Commissioner Chavez said, "Randall, we're talking about a group of employees that are in safety sensitive positions."

Mr. Kippenbrock said, "For medical cannabis, or for all employees."

Commissioner Chavez said all employees.

Mr. Kippenbrock said, "All employees for that one."

Commissioner Chavez said, "Then safety sensitive employees would fall under random testing."

Mr. Kippenbrock said yes.

Mr. Miller said, "I think what you're talking about, you are talking about providing some kind of a safeguard against strict enforcement of a positive test where there may be other indications that the person was not actually under the influence of marijuana at the time they were tested. I think that is part of management's decision in how to apply penalties after a positive test may be made. So we could, potentially build in some language allowing a person who has tested positive for marijuana to rebut the evidence of the test the evidence when one has a license to use medical marijuana and were not under the influence at the time."

Councilor Bushee said, "What I was hoping for was an expanded definition of "on the job". In other words, there's some evidence, witnesses. I feel like.... I understand the on-the-job piece, but since your test, and I don't want to belabor this, is just that it's in your bloodstream, I don't know how long that remains in the bloodstream... it feels like there's a gap here that I think we need to amplify. We're going to deal with this soon at the City as well, and there may be some definition that comes from the State medical marijuana laws, I don't know. But it feels like there needs to be another piece in here."

Mr. Miller asked, "Would the piece that I just suggested satisfy your concerns, you think, if the person tested positive was able to rebut the test. I think it would make it more clear."

Councilor Bushee said, "I'm looking at use on the job. Where does it say proof of use on the job or something so it doesn't leave it to then subjective management to decide it, the test proves this. There is something missing, there is a gray area in this. Can you just expand use on the job, with two other pieces of evidence. I don't know. Something. It's missing a piece."

Mr. Miller said then you're looking specifically 2(D).

Councilor Bushee said, "As evidenced by blah blah blah whatever you would determine. But I think you're leaving it up to a subjective, you know... it could be misused is my concern. I'm not saying it will be, but we're putting this in and it affects someone's life. Do you see where I'm talking about."

Mr. Miller said yes.

Councilor Bushee said, "In the alcohol section of course you have a sample of their breath, that would be that day, it would be calculated. It's just that marijuana is a different substance."

Mr. Miller said, "We could potentially say something like, 'the conclusion that the employee was under the influence of medical cannabis while on the job must be supported by evidence of intoxication, and that could be persons who appear to be intoxicated and are....'"

Councilor Bushee said, "...Or impaired I think would be a better word. I think intoxicated gets associated with alcohol."

Mr. Miller asked, "Would you accept that language."

Councilor Bushee said, "Yes, that is fine. And in that case, I would move for approval, remember for all employees."

MOTION: Councilor Bushee moved, seconded by Councilor Lindell, to approve the revisions to the Solid Waste Management Agency's Personnel Policy Manual regarding Employee Drug and Alcohol Testing Policy Statement G, as amended by the discussion above.

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

VI. MATTERS FROM THE PUBLIC

A copy of *Making Recycling Really Work*, entered by Marina Webber, Global Warming Express, is incorporated herewith to these minutes as Exhibit "6."

Chair Maestas asked to go back to public comment so the newly arrived people could speak.

It was the consensus among the Board to return to Matters from the Public at this time.

Marina Webber. Miss Webber said she was excited to see Santa Fe become more recycling friendly. Ms. Webber read a statement into the record. Please see Exhibit "6." for the text of Ms. Webber's statement.

Chair Maestas thanked her for attending the meeting. He said it is nice to see that our youth are interested in our future. He said you have set the bar high for us.

Commissioner Holian thanked her for attending. She said the County is looking at redoing its waste collection services and this is a great idea that she will put forward.

Chair Maestas then returned to the regular agenda

Councilor Bushee asked to move Item D to be heard next on the agenda so the young people can participate.

MOTION: Councilor Bushee moved, seconded by Councilor Lindell, to reconsider the previous approval of the agenda, to hear Item D next on the agenda, and to approve the agenda as amended.

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

(D) REQUEST FOR APPROVAL OF SERVICES AGREEMENT WITH FRIEDMAN RECYCLING OF ALBUQUERQUE, LLC, OF ALBUQUERQUE, NM, THE PROCESSING AND MARKETING OF RESIDENTIAL AND COMMERCIAL RECYCLABLE MATERIALS FOR THE SANTA FE SOLID WASTE MANAGEMENT AGENCY (RFP NO. 15/31/P).

Randall Kippenbrock, Executive Director, presented information regarding this matter from his Memorandum dated July 9, 2015, which is incorporated herewith to these minutes as Exhibit "7." Please see Exhibit "7," for specifics of this presentation.

A copy of a Memorandum dated June 4, 2015, with attachments, to Randall Kippenbrock, Santa Fe Solid Waste Management Agency, from Dave Yanke, NewGen Strategies & Solutions, LLC, regarding the *Evaluation of Friedman Recycling Proposal vs. Agency Operating Scenarios*, is incorporated herewith to these minutes as exhibit "8."

Councilor Lindell asked, regarding page 2 of the Services Agreement, if we looked at our cost of delivering the recyclables as opposed to Friedman doing the pick up and take away.

Mr. Kippenbrock said yes, and it is about the same category of expense.

Councilor Lindell asked if we currently have sufficient trucks and drivers to do this, and Mr. Kippenbrock said yes.

Mr. Kippenbrock answered yes we do.

Councilor Bushee said then SWMA employees will be doing this.

Mr. Kippenbrock said, "Yes, that is our first choice."

Responding to Councilor Lindell, Mr. Kippenbrock said we are using the current BuRRT operators, noting they will be able to manage with the existing staff.

Councilor Lindell asked if the \$4 a mile takes into consideration our cost for trucks, fuel and everything else.

Mr. Kippenbrock said yes.

Councilor Bushee said we read in the paper that you did not find this to be beneficial, and asked what changed within 1-2 meetings, commenting she has always been an advocate.

Mr. Kippenbrock said the analysis he did was based on the December 2014 report based on numbers that included the possible sale of recyclables. He said subsequent to that first negotiation, he reached out to the same firm, NewGen, to reevaluate the proposal. He said that process brought the contract closer to what Friedman offered to us.

Councilor Bushee expressed concern that we will be subject to the whims of the market, noting some of the success of single stream recycling hinges on this working out well. She wants to know that we will have other options if this does not work out.

Mr. Kippenbrock said our Plan B is to keep our facility in place, commenting that it is all market driven.

Councilor Bushee said Mr. Kippenbrock was quoted in the paper as saying the way to go was not third party.

Mr. Kippenbrock said that was based on his initial analysis.

Councilor Lindell said she thought we had a recent report from NewGen, and they supported the numbers the agency brought forward.

Mr. Kippenbrock said you are correct, but that was in early June, and things could change such as a major repair of the facility.

Councilor Bushee said we want to go with the best option and we don't want people to lose their jobs as a result.

Mr. Kippenbrock distributed copies of a report from NewGen Strategies and Solutions [Exhibit "8"].

Councilor Bushee said we want to have more options for the consumer.

Mr. Kippenbrock said he feel that this is the best way to go.

Chair Maestas said he doesn't know if we have to get into great deal of detail financially. He said there have been changes which he thinks are good. He said we were going to include glass and they where charging us by the ton. He said he likes aspects of this proposal, commenting that it does not include glass so we don't have to pay the premium on the weight due to the glass.

Councilor Bushee asked that Mr. Schiavo speak to this.

Chair Maestas said that will be fine, but briefly.

Mr. Schiavo said the numbers included glass, but SWMA indicated the magic number was 10,000 tons and that it would be a better deal for Friedman to do it.

Councilor Bushee said she didn't like the initial high proposal. She doesn't want to see us do a big reversal. She said she is happy with this but frustrated because it feels like it has been a moving target.

Councilor Bushee said the issues at the Public Utilities Committee were about more than glass, commenting that there are a lot of moving parts. She said her hope is that this is a solid proposal that can stay in place for awhile and we can expand on our diversion rate, which always has been the aim. We read in the paper that SWMA can do it cheaper, but we didn't have anything to support that. She said what happened at Public Utilities Committee is not a done issue, and we need to stop and take a look at how we can proceed.

Commissioner Chavez said all the benefits to a public private partnership are in this new agreement. If we find it does not work we can bring it back. He likes the idea that we are allowing an expanded scope of recycled materials. He says he hopes the schools will do milk cartons, commenting the Schools already are doing a great job.

Ms. Randall said the their recycling rates aren't yet acceptable to her.

Commissioner Chavez said this contract is leading us in the right direction.

MOTION: Commissioner Chavez moved, seconded by Commissioner Holian, to approve the proposed Services Agreement with Friedman Recycling of Albuquerque, LLC, Albuquerque, for the processing and marketing of residential and commercial recyclable materials for the Santa Fe Solid Waste Management Agency.

DISCUSSION: Councilor Bushee said she is really interested in following what the County is doing, because it will help to increase diversion, and asked if we can include that in this discussion.

Chair Maestas said we will cover that under Matters From the Board.

Chair Maestas said this proposal does not include glass, noting Friedman has a separate contractor for glass in Albuquerque.

Councilor Bushee said it would have affected this contract if we were collecting waste from the County, commenting she still feels this is appropriate to this discussion.

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

C. REQUEST FOR APPROVAL OF COLLECTIVE BARGAINING AGREEMENT (UNION CONTRACT) BETWEEN SANTA FE SOLID WASTE MANAGEMENT AGENCY AND AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES (AFSCME) LOCAL 3999

Randall Kippenbrock, Executive Director, presented information regarding this matter from his

Memorandum dated July 10, 2015, which is incorporated herewith to these minutes as Exhibit "9." Please see Exhibit "9," for specifics of this presentation.

Councilor Lindell said she has a couple of questions. She asked, when it says no changes were made to the compensation plan, it gives the different things that were approved in March 2006, but this plan doesn't have merit pay in it.

Responding to the Chair, Councilor Lindell said she is on page 1 of the Memorandum, but she is looking back to the C tab in the packet, and asked how that reconciles.

Mr. Kippenbrock said they recognize there are a lot of changes going on, including the Friedman contract, and he wanted to make sure the amended budget is reasonable, and the only change was to amend the budget for COLA. There is no merit pay being considered for this fiscal year.

Councilor Lindell noted this contract goes through 2018, asked if merit pay will be considered next year.

Mr. Kippenbrock said it will be presented for this Board to approve or not to approve.

Councilor Lindell said then it would be back to this Board again next year, and Mr. Kippenbrock said yes.

Councilor Lindell said the painful part of this is the cost of living adjustment at 1.6%, commenting that's a pretty small amount. Additionally, 1.6% is way way far away from what City employees have received. She said there is an underlying feeling with some people is that there is an unfairness to that. She said this is a comment. He said City employees received 50¢, not 1.6%. She asked who is the negotiating team for the Agency and for the union.

Mr. Kippenbrock it is him, Angelica Salazar and Rosalie Cardenas. And for the union team it is Chris Armijo, Council 18 Representative, Chief Steward for SWMA Apolonia Garcia and Patrick Romero the Interim President, noting these are the 3 people who sat on that Board. He said they looked at compensation and went back and forth and discussed the Compensation Study. He said the union were not in favor of some of the recommendations. The union members have experienced merit and COLA in the past years, and are in favor of that. He said they also looked at bonuses, across the board and all different options. He said ultimately, we came back to the current pay system we have in place.

Councilor Lindell said then it is the current pay system without the merit pay for this year.

Mr. Kippenbrock said that is correct, noting no merit pay is being proposed for this year.

Councilor Bushee said she is looking for appendix A and a comparable study or list..

Mr. Kippenbrock said that information should have been in the packet.

Councilor Bushee said perhaps Ms. Padilla knows. She said the compensation plan has not changed for almost a decade, and Mr. Kippenbrock said yes. She said, "So, minus the merit, but what does that mean. Has the increase t been 1.6% every year.

Mr. Kippenbrock said, no, it is based on the Bureau of Labor Statistics for the prior year for the COLA only. He said it ranges from 1.6% this year, noting last year it was "point something." A few years ago, it was negative and we didn't get anything. He said, "I've seen it as high as two something, since 2006. It varies according to the Bureau of Labor statistics."

Councillor Bushee asked what was the merit pay on average.

Mr. Kippenbrock said it has been 2-2½%, noting he budgets 2½ %, but roughly it is about 2%, across the board.

Councilor Bushee asked, "How are the pay ranges."

Cindy Padilla, Director, Environmental Division, said SWMA salaries are higher than the beginning salaries for the City of Santa Fe, by about 40¢.

Councilor Bushee asked the percentage of increase for similar positions at the City this year.

Ms. Padilla said there was no salary increase.

Commissioner Chavez said this has gone through a very extensive negotiation between Mr. Kippenbrock, management and labor, and sides have gone through the negotiations and worked out this out.

Chris Armijo, AFSCME Council 18, said he and the Deputy Administrator for AFSCME Local 3999, just had a brief caucus because Mr. Kippenbrock brought something up that none of them recall hearing in negotiations, which is there will be no merit increases for this year. He said that causes them concern because it wasn't brought to the table. He said they were told that the COLA and merit stayed in place. He said he personally doesn't like merit increases, but the employees like merit increases. He said one thing that was discussed was that we place a cap on merit increases "if this Board felt there was too much money being expended in order to pay our employees which are your constituents." He said their concern has to do with his comment made about the merit increases, reiterating that none of them were aware of that until this evening and gives them cause for concern. He said, "So, at this point I would respectfully request that possibly you would table this to our next meeting, so we can sit back at the table with Mr. Kippenbrock and iron this out. This is very important to use, and this was new to this evening."

Chair Maestas asked, "Wasn't there any kind of an agreement of closure to negotiations. Apparently negotiations are still open, and I'm very uncomfortable discussing these issues here in this meeting. Are the negotiations ceased or not. Wasn't there some kind of ratification."

Mr. Kippenbrock said, "The union has ratified the contract. Mr. Armijo was correct in terms of what we discussed about putting a cap on our increases but we never reached consensus on that."

Chair Maestas said, "Merit pay is financial and it's dependent on the actual budget, and there has to be appropriations for a merit pay pool, and there is no merit pay pool in the budget."

Mr. Kippenbrock said this is correct. He said, "Whether I have said it out loud, not to offend the union on this. We got into approving the contract and then we got into our amended budget, and we realized the amended budget would not support merit with COLA."

Commissioner Chavez said, "I was asking the question that you asked in a different way. I wanted to know if the contract before us been ratified, or not, because the requested *[inaudible]* is between management and labor. And I don't want to open up or disrespect that collective bargaining process. So, the action before us is either to approve or reject the proposed contract."

Chair Maestas said, "Merit pay is available if it is appropriated, and depending on the budget constraints."

Commissioner Chavez said, "I think that's been very clear from the very beginning, and we've let the employees decide through collective bargaining whether they will support or agree to both COLA and merit pay. And we had a big discussion on those two points. And we've pretty much let the negotiating team decide that for themselves. And once that contract is ratified, for me, I don't say anymore. And so I find it a little troubling that either the contract has been ratified or not, and if it hasn't and there's still concerns, then we have some problems."

Chair Maestas said this will affect the approval for the amended budget as well.

Chair Maestas said, "You recall we were here, we got the presentation from the consultant that did the salary survey. The salary survey did not include the City of Santa Fe, and it did not consider tenure in the recommended salary bands. But it did recommend some salary bands and did identify certain positions that were well below the lower limit of that particular pay band. The only positive thing I think that survey provided to this Board was that having both pay and COLA was off trend. So, I think this is a generous agreement and it is a generous concession on behalf of the Agency to have COLA and merit pay. And I think that, the salary survey too, we talked about making protocol market adjustments for those positions that fell under the lower level of those pay bands. I know the salary survey recommended eliminating the COLA and having merit pay only. I think this is a good deal for everybody. The salary survey was flawed in many respects, but I think limited. But I think the positive thing is it lets us know that merit pay is not the trend, and that is where it is going."

Councilor Bushee asked if any of the lower salary ranges corrected. She found that study limited and kind of futile, because they kept coming to present to us and it was very apples to oranges, the comparison, it didn't really work. She said, "I don't know if they were used to doing private sector things or what, but it didn't really work."

Councilor Bushee continued, "So, what I'm concerned about, and I don't want to reopen negotiations or anything, but I want to know if the lower salary ranges that needed to be kicked up were addressed in any of the negotiations."

Mr. Kippenbrock said, "They were discussed to compact those positions from the 60% spread to a 45% spread. What that would have done, is it would have increased the starting pay of those positions, but it also would have decreased the maximum pay that you have."

Councilor Bushee asked if they did or did not agree to it.

Mr. Kippenbrock said, "They did not agree to that."

Councilor Bushee said, "I'm just going to speak for the future, I hope that some of those issues get addressed. And me, personally, I favor the COLA approach. I'm familiar with it. I think our employees are familiar with it. And what I found missing with the merit pay, is that it was always across the board. It really wasn't merit pay, it was just... I get that people would like both, but it wasn't merit pay. So, I'm happy with this for right now, but I really think that addressing compaction would be a wise thing down the road."

Chair Maestas said, "On that point of getting the Agency's salary structure in line with the market, I thought you negotiated a much longer frequency for conducting a salary survey and that's unfortunate. I thought we proposed to change it from 3 to 5 years. And so, I thought that was the main objective to conducting the salary survey, that it would be considered in making changes to the salary structure of the Agency and making it more compatible and consistent with the market. So I'm a little dismayed to see that, but if that's what you negotiated, then so be it."

MOTION: Commissioner Chavez moved, seconded by Councilor Lindell, to approve the Collective Bargaining Agreement (Union Contract), between the Santa Fe Solid Waste Management Agency and the American Federation of State, County and Municipal Employees (AFSCME) Local 3999 as presented.

EXPLANATION OF THE MOTION BY THE MAKER: Commissioner Chavez said the contract has been ratified and he appreciates both sides working on it, commenting it may not be perfect but there are some details that will be constant – pay increases and employee safety in workplace is always something we want to pay attention to and want to support. He said, "I hope that's what we can make it, but it doesn't end the discussion. So I make my motion based on that, and that any details and fine points that are left out, that we can work out those issues in the next contract."

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

(E) REQUEST FOR APPROVAL TO AMEND FISCAL YEAR 2015-2016 BUDGET.

Councilor Lindell said, "I had pulled this item, and in light of the discussion the discussion we just had, the reason I pulled that was considered and taken care of in our discussion on this last item."

MOTION: Councilor Lindell moved, seconded by Councilor Bushee, to approve the request to amend the Fiscal Year 2015-2016 Budget.

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

END OF CONSENT CALENDAR DISCUSSION

VIII. MATTERS FROM THE EXECUTIVE DIRECTOR

Mr. Kippenbrock said we are still working with the State Environment Department, Solid Waste Bureau, on the compost plan, and we received comments from them last week. He said, "We are addressing those 22 comments, and about 18 of those have to be answered by our contractor, Payne's Nursery. Once we get those comments returned to NMED, hopefully, later on this month, we will have an approved operation plan. Once we have the plan approved, then they can commence operation on our facility. Right now, they cannot come."

Councilor Bushee asked what kind of comments we received from NMED.

Mr. Kippenbrock said, "Comments like the technical, how you plan on monitoring your piles, maps, etc., they are pretty much basic is the way I look at it. Instead of looking at the add-ons that we did to our existing plan, they reviewed the entire plan. The purpose of that plan is we're also going to incorporate it into our landfill permit application that is going to be coming up."

Mr. Kippenbrock continued, "Earlier this year we awarded the contract for green waste grinding at BuRRT. We're getting very close to our first grind, probably within 30 days, we'll see the outcome of that contractor and see the kinds of materials it has generated. In that time, we pretty much have shut down our machine, allowed the brush pile to accumulate at BuRRT."

Mr. Kippenbrock continued, "Another major avenue is the landfill permit application. We received a "deemed complete" letter from NMED this week, as a matter of fact yesterday. And we are going to have a public hearing on September 24, 2015, at the Nancy Rodriguez Center, I believe at 5:30 p.m. They allow for the public to make any comment on the application. Also there will be a public hearing officer, along with attorneys from the NMED and our attorneys, maybe opposition attorney, to allow them to ask questions, and taking any testimony. That's part of what I would call the final stage of the permitting."

Mr. Kippenbrock continued, "The BuRRT permitting is in the early stage. We received about two weeks ago comments, request for additional information. The permit application was very, I would say in general, we had a lot of placeholders, but we're still working closely with the City how we are going to address, primarily, like the green waste area, glass crushing and so on. Once we get all this information in, we will be able to respond to NMED's request for additional information, which is due on November 4, 2015, more or less."

Commissioner Chavez asked, "Randall, does that have to do with the new lease of the space for the SWMA."

Mr. Kippenbrock said, "The lease is a separate item, but it also plays very importantly with the BuRRT permit application. We are working with Mr. Schiavo on that, and hopefully we will get a draft contract to review, and make our changes, our recommendations and so on."

Commissioner Chavez said, "And that had to do with the building on the property and the boundaries of the property."

Mr. Kippenbrock said, "Correct, the use of the facility. Those are the major changes, updates. That's all I have to say."

Mr. Kippenbrock said, "Like I said, I just mentioned our BuRRT lease, that will be our next tackle. We're still working on the glass crusher for sizing, but somewhat holding back until we know more how the City is going to proceed with its glass program. That will help us with the sizing of the new machine. We definitely need a new machine, and go from there. We don't want to put in an infrastructure that we don't need at this time. So that's we are on that."

Mr. Kippenbrock continued, "I feel comfortable with the Caja Del Rio permit application, the way it's going. We have a lot of work to do with the BuRRT permit application, and obviously the BuRRT lease. Over the next few weeks we will be dealing with changes that is related to Friedman contract, as far as opening the vacant positions, as well as the new positions that were approved tonight and go from there. Keep in mind on the Friedman contract, and the end result, the real savings will be approximately \$200,000 right off the bat in the first 9 months or so. We should see some more savings and maybe additional revenues as the economy improves in year two. That's it."

IX. MATTERS FROM THE BOARD

Commissioner Holian said, "As mentioned by Mr. Eigner, we had a little setback on the proposed County Ordinance to create solid waste collection districts. There was a public hearing, not this last meeting, but the meeting immediately prior to our last meeting, and there was a lot, a lot of public comment in opposition to the Ordinance. Adam knows, he was there. He was one of the two people who spoke in favor of the Ordinance. The opposition had to do with small private haulers, and in fact, one small private hauler in particular, who was worried that they did not have the resources to serve a whole district. The idea was to create three Solid Waste Collection Districts, and this one private hauler felt they couldn't

serve a whole district, so they really didn't feel comfortable with applying for a franchise agreement. This was a very popular private hauler, and this private hauler marshaled the forces to really come out and oppose this Ordinance."

Commissioner Holian continued, "Now the result of all of this was that the Ordinance was tabled until the first BCC meeting in November. And, in the meantime... and now, I really am only speaking for myself in this case, it's really looking for ways to keep this initiative alive. Because I think it's going to be very important, as Councilor Bushee pointed out, for an increased diversion rate in the County. And, on the other hand, you know, I don't want to kill off small businesses either. So, we're looking for various compromises and ways that we cannot kill off the small private haulers, but also to move forward with the collections districts, because they make sense in so many different ways. But, I can't promise anything at this point. I will say, however, there was one positive thing. I think all five of the Commissioners spoke out for increased recycling. We all agreed on that point, and so we are going to go forward with something, but it's a matter of staying tuned to see how this all works out."

Councilor Bushee asked Commissioner Holian if she has heard from the other haulers.

Commissioner Holian said, "We didn't hear from the haulers. We heard from one private hauler only."

Responding to Councilor Bushee, Councilor Holian said, "This private hauler is a very good private hauler as a matter of fact and very popular. They do a very good job. Their customers love them and they don't want to see them go out of business."

Councilor Bushee asked if their concerns were that they didn't want to spend money, or what.

Commissioner Holian said, "They don't want another private hauler. They like their private hauler."

Chair Maestas asked if there is a monopoly.

Commissioner Holian said there are in certain neighborhoods.

Councilor Bushee asked, "But wouldn't you engage the private hauler?"

Councilor Holian said, "Like I said. The purpose of this Ordinance is to create three Solid Waste Collection Districts. The idea is that one private hauler, or possibly two private haulers partnering with one another, would pay a franchise fee and serve a given district. This particular private hauler felt they really couldn't, under the way we had organized this, they really didn't feel they could compete."

Councilor Bushee asked if they could have 3 haulers.

Commissioner Holian said, "We are exploring all options, and there's a lot of things that we could do, but I can't really say what we are going to do at this point, because we don't know."

Councilor Bushee asked if part of the concern is that the competition does not want to spend the money.

Commissioner Holian said, "Money was part of this issue, but it wasn't a huge part of it. And there are other ways it would save money for the County as well, because right now in some neighborhoods we have 3-4 private haulers serving 8 neighborhoods and that makes a lot of road traffic, and that means the roads have a lot more wear and test and it will cost the County money."

Chair Maestas asked if there is anything Commissioner Holian needs from this Board – a resolution in support.

Commissioner Chavez said, "The one smaller hauler, as I understand Commissioner Holian, because I talked with this one hauler, is that he not automated and he will never be automated, because he does not have access to capital, and he knows that. If you don't do the volume, if you don't have the numbers, the banks are not interested in what you do. I've lived this. I know small business, and I know what we're talking about, is he doesn't have access to capital. We structured the ordinance so there is a seven year amortization. He does not understand that. He doesn't understand that being a subcontractor under somebody else might be the right thing to do. He's very suspicious about that. The staff has talked to all of the haulers that are in our universe that are in the business of hauling trash. I can't imagine that there would be another Ibarra that would want to borrow from a bank to get into this business."

Commissioner Chavez continued, " So we have three larger haulers that people don't like because they're maybe not from here and their portfolio is like \$14 million the last year, and so they don't like that. The 3 haulers are Waste Management, PTI and somebody out of Edgewood. They already are doing business here. There is not any question of whether they will come, or whether they are interested, they're already doing business here. So, Ibarra is doing, by hand, the north district. In each of the districts, there are 5,000 households in the system. In the northern district, out of those 5,000 households, he's only servicing 800, and that is all he can do. That's all he wants to do, and that's all he's able to do."

Commissioner Chavez continued, "So what staff is working on now, is a mechanism in our Procurement Code, to define what a small business is, based on the needed customer base. So now there's going to be 3 or 4 different options, instead of the option that was presented at the meeting before. The option originally presented, was to have 3 districts, and they would go to an RFP process, and there cannot be more than 2 private haulers in each of the Districts. One hauler cannot do more than two districts. So you have this ailing economy and you have this competitive edge. That is unraveling because people don't want local government to decide which of their private haulers is going to be in the future, that that not change. That in this process, if the district that they're living in is awarded to another private hauler, there is going to be *[inaudible]* to that. So they don't like that piece of it, and they don't want to lose the small private hauler that they have established a one-on-one relationship with now. And they also like Ibarra, because, even though he is smaller and he can do it by hand, that and more, it costs less. So it is the bottom line. And in most cases, our customers, our constituents want everything at the least cost or no cost. So people love recycling, they want us to do everything we can here to increase recycling or reduce the waste stream, but are they willing to pay for it at the end of the day."

Chair Maestas said he would bet that the County is working on options.

Commissioner Holian said, "Yes. In fact that's what we asked of staff at the last meeting, was to bring forward other options."

Commissioner Chavez said, "We propose to fix that, and let the small guy bid on all of the 3 Districts and then have the larger guy bid on a bigger piece and divvy it up that way."

Councilor Bushee asked what the County is going to do with the existing convenience centers, or transfer stations.

Commissioner Holian said, "The Districts are going to serve only about half of the population. And there are people who still will want to use the transfer stations."

Commissioner Chavez said, "That's a good point, because even though we are going to make recycling mandatory, that mandatory will be only in those districts and not in the County. That's probably down the road."

Councilor Bushee said, "I would like to update single stream from my perspective. I have watched... when we first started collecting recycling, I brought forward all kinds of hopes that we would engage the consumers to really do better. I helped put a composting program together that kind of went by the wayside. I got the recycling coordinator. I do a lot of things, and then I kind of hoped it would take off and it never really did for two decades, not much. But I will tell you that my concern, and it is a segue from what you were saying Commissioner Chavez, is that we keep raising rates, much to do with the raising of the rates of the dumping/tipping fees here on City consumers, but we have not offered any new services. So it's been a real frustration. And so our rates are low. It bothers people if they're not given something and we haven't been."

Councilor Bushee continued, "So it was a tough sell initially when we sold recycling. I can remember Frank Montano saying, we, meaning the people from Santa Fe, recycle everything already. We reuse all the cans, all the glass, we don't waste. And I would also love to hear how we might, and you're far off from that, but get to pay as your throw, whatever I said. But the concern really is that we keep having an aging population that does not generate as much trash. So glass, yes is a bigger deal to some of these folks as well, because it's heavy and they will not take it to a convenience center."

Councilor Bushee continued, "So Councilor Lindell and I spoke, and you were unavailable, but with Nick before we came. And we've already seen an increase in the ability to throw out all kinds of cardboard. And now you'll have the ability for all kinds of plastic. And to some degree, those small bins, people don't put much in it already. So the hope is that we'll see how that works. Right now, we're still having glass picked up separately and hopefully we will find markets. I did love the new bins that the Global Express kids brought."

Councilor Bushee continued, "I've also been trying to get a green waste pickup, at least just a couple times a year, and then it turned into a big bureaucratic thing – we're got to have trucks, we've got to have a pilot program and nobody signed up, because it was this big thing. Whereas, if we could find a way to make it easier. I compost on my own, and I know a lot of gardeners that do, but there are a lot of folks that have a guy come in to do yard work once or twice a year and then they've got this green waste in the fall."

Councilor Bushee continued, "28% of the waste is food and green waste, and I included that. So my hope is that we don't have to raise anybody's rates for a little while with this third part contract, and really see how well that works. I think it's going to be an educational process as well. Folks don't even know now that they can throw our their cereal boxes and their toilet paper tubes and their things in for their paper. And so we've got to keep ahead of that and really keep encouraging and cajoling and educating folks. But they are pretty concerned right now about how we are operating our utilities and some other things. The bottom line is it's still an issue for folks and convenience always."

Commissioner Chavez said, "When we talk about private haulers that we're discussing, the fee they charge the customer our constituents is only to pick up at the curb. They're not paying a tipping fee to drop it off at our facility."

Mr. Kippenbrock said the \$20 a month that they pay includes the tipping fee, and it applies to all of them. He said tipping fees generally are 40-45% of their overall budget, and the rest is for collection.

Commissioner Chavez asked Mr. Kippenbrock if he is tracking that separately.

Mr. Kippenbrock said no, the company will track that separately, noting that he has access to how much tonnage they bring in and what we charge them, but he doesn't have access to their financial records.

Councilor Bushee said, "And I just want to finish by saying this third party contract with Friedman is critical for all of us. And I really hope the County is able to work out the differences between the different districts, then we get the volume, and the education could happen collectively. It's all our problem."

Chair Maestas reiterated his thanks for everyone, saying he believes Mr. Kippenbrock took a major step forward with the third party contract. He thinks the terms are much more progressive compared to the initial contract that we negotiated. He thinks it gives us a lot of options going forward. He has no doubt that our tonnage is going to increase, and thinks it's possible for us to increase our tonnage to 10,000 tons and possibly more, which will change the trend of what we were covering even under the Friedman contract.

X. MATTERS FROM STAFF

There were no matters from staff.

XI. MATTERS FROM THE CITY

Ms. Padilla thanked the members of the Board and SWAC for their input and recommendations.

XII. MATTERS FROM THE COUNTY

There were no matters from the County.

XIII. NEXT MEETING DATE: Thursday, July 16, 2015.

XIV. ADJOURNMENT

There was no further business to come before the Committee, and the meeting was adjourned at approximately 6:45 p.m.

Joseph M. Maestas

Joseph M. Maestas, Chair

ATTESTED TO:

Yolanda Y. Vigil
Yolanda Y. Vigil, City Clerk

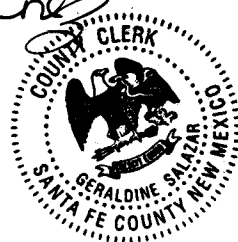
SUBMITTED BY:

Melessia Helberg

Melessia Helberg, Board Stenographer

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
SOLID WASTE MINUTES
PAGES: 24
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Witness My Hand And Seal Of Office
Deputy *Estrella Martinez* Geraldine Salazar
County Clerk, Santa Fe, NM



SFC CLERK RECORDED 09/10/2015