

**MINUTES OF THE CHESHIRE TOWN COUNCIL SPECIAL MEETING HELD ON  
TUESDAY, NOVEMBER 25, 2014 AT 7:30 P.M. IN COUNCIL CHAMBERS, 84  
SOUTH MAIN STREET, CHESHIRE CT 06410**

Present

Tim Slocum, Chairman; David Schrumm, Vice Chairman; Council Members Patti Flynn-Harris, Liz Linehan, Sylvia Nichols, Robert Oris, Thomas Ruocco, James Sima and Peter Talbot.

Staff: Town Manager Michael A. Milone; Town Attorney Alfred Smith

Guest: Thomas Lyons, V.P. Covanta Energy.

**1. ROLL CALL**

The clerk called the roll and a quorum was determined to be present.

**2. PLEDGE OF ALLEGIANCE**

The group Pledged Allegiance to the Flag.

**3. COVANTA AMENDED AGREEMENT**

MOTION by Mr. Oris; seconded by Ms. Nichols

BE IT RESOLVED, that the Town Council approves Resolution #112514-1.

RESOLUTION #112414-1

BE IT RESOLVED, that the Town Council approves the Second Amendment to Municipal Solid Waste Agreement by and between Covanta Projects of Wallingford, L.P. and the Town of Cheshire per the terms as presented and attached, and authorizes Town Manager Michael A. Milone to execute said Amended Agreement.

Discussion

Mr. Oris informed the Council that this matter was discussed, in depth, at the Solid Waste Committee meeting. He stated that the Town of Cheshire entered into an agreement with Covanta for a waste to energy facility, and Covanta is changing the site to a transfer station. At the committee meeting there were four (4) items identified which require follow-up by Town Manager Milone.

Mr. Milone explained that in the amended agreement the tip fee is reduced to \$65 from \$70.30 per ton. The Solid Waste Committee reviewed the amended agreement in detail and four (4) questions from the committee were given to him for response.

- 1) *The issue of termination by Covanta under the provision that the 5 towns (Cheshire, Hamden, Meriden, Wallingford, North Haven) do not meet the minimum 48,000 tons. The committee questioned whether the towns could make up the cost difference, i.e. 1,000 tons at \$65 a ton = \$65,000, and if this would prevent termination by Covanta.*

With the signing of the Covanta contract Mr. Milone reported that the 5 towns put aside \$2 million to be used by the Policy Board (CEO's of the 5 towns) in the event of higher tip fee charges. This reserve fund money could be used to make up the difference to Covanta and prevent termination of the agreement.

2. *Right of First Refusal – for the 5 towns to buy the plant and whether this is still in effect with the amended agreement.*

Town Attorney Smith informed the Council that the proposed amended agreement does not amend the definition of the facility, and under the current agreement the towns have the right of first refusal to purchase the entire recourse recovery facility.

Regarding the minimum tonnage, each town has a minimum, and the amended agreement calls for an aggregate minimum. The towns can make Covanta whole by making a financial payment. The recommendation of the Solid Waste Committee was to move this forward.

3. *Route to the Plant – the amended agreement identifies the route a hauler takes to get to the plant, and they must use these prescribed routes or get a ticket.*

In the original agreement the route identification cannot be found, and Mr. Milone will verify whether the route has changed.

4. *Fall back if the agreement is terminated – can Cheshire bring its waste to the Bristol facility at a tip fee of \$60 per ton; there is additional distance involved; the question is how this would impact the Town's contract with its hauler, A.J. Waste.*

Mr. Milone will review this issue with Covanta, the contract with A.J. Waste, and report back to the Town Council.

Tom Lyons, V.P. Covanta Energy, commented on the questions from the Solid Waste Committee and responded to them.

1. This was a negotiation point discussion; if any one town falls below the minimum requirement there is a shortfall payment. Regarding the structure of the aggregate of 48,000 tons for all the towns, going below that number, Covanta has the right to terminate. The minimum amount to run the facility efficiently has been determined and there is elimination of the put or pay in the amended agreement.

Mr. Milone asked about the towns paying Covanta for the tonnage under the 48,000 tons, and making up the difference to the company.

Under the contract the Town does not have this right, and Mr. Oris stated the committee is asking for the opportunity for the 5 towns to pay the minimum requirement as an option so there is no termination of services. If there is no payment Covanta can

terminate the contract.

According to Mr. Lyons, this could be considered by Covanta.

In this regard, Mr. Milone stated it seems harsh that if the towns have a shortfall, Covanta terminates the contract, and he asked if Covanta would exercise this right.

Mr. Lyons stated that Covanta wants to get back to the same monetary position, and the Towns are getting a better deal going into Bristol at \$60 per ton.

In Appendix A it says 8,100 tons, and Ms. Flynn-Harris noted Cheshire produces about 7,000 tons. She asked about the 5 towns getting to 48,000 tons.

The Council was told by Mr. Lyons that the number established for the 5 towns with residential waste was 68,000 tons.

The most recent number received was 51,000 tons of residential waste for the last fiscal year, and Mr. Milone said each year the Town of Wallingford informs the towns of the number change, and Cheshire is at 13%. With a tonnage shortfall, Cheshire is responsible for 13% of the payment out of the reserve fund.

Regarding the tonnage of waste, Mr. Lyons informed the Council there is another 45,000 tons of commercial waste. There is about 100 tons of waste coming from the 5 towns, and all of the commercial waste is applied to the 48,000 tons of residential waste.

In that case, Mr. Oris said this should be clarified in the agreement...that the tonnage includes commercial and residential waste. He also wants the "put and pay" clause in the agreement as a safety valve for the towns.

Mr. Lyons reported that the "route to the plant" is the same route as in the original agreement and the Town of Wallingford wanted specific language on the route in the amended agreement.

Chairman Slocum commented on the A.J. Waste impact as relevant because the Town has a contract with this hauler taking trash to the plant. A piece of that contract is how far the hauler has to travel to dispose of the waste.

It was stated by Mr. Lyons that Bristol is the Town of Cheshire's best option, but the Town has the right to use any site.

Bristol is the closest site to Cheshire and Mr. Milone said using this facility would be a more economic advantage. There are concerns about additional costs in terms of travel for the hauler.

Following the discussion, Chairman Slocum stated this matter should be tabled for

the December 9<sup>th</sup> Council meeting.

Mr. Milone will ask Covanta about reopening the agreement, and he will check with the other towns.

Mr. Lyons commented on the benefit of owning and operating a transfer station, and with 100,000 tons of waste to be dealt with he does not believe additional language is needed in the contract. He expects Covanta's permit for the transfer station will come forward in January 2015. Approval by the 5 towns is needed for the amended agreement.

With regard to the approval of the Town of Cheshire, Chairman Slocum said the matter will be addressed by the Council at the December 9<sup>th</sup> meeting.

MOTION by Mr. Oris; seconded by Ms. Nichols.

MOVED to table Agenda Item #112514-1, Covanta Amended Agreement, to the Town Council meeting of December 9, 2014.

VOTE The motion passed unanimously by those present.

#### **4. TRANSFER OF OWNERSHIP OF CELL TOWER EQUIPMENT SHELTER AT 500 HIGHLAND AVENUE**

MOTION by Mr. Schrumm; seconded by Mr. Ruocco.

BE IT RESOLVED, that the Town Council approves Resolution #112514-2

#### **RESOLUTION #112514-2**

BE IT RESOLVED, that the Town Council accepts ownership of the abandoned communications personal property of Nextel Communications of the Mid-Atlantic, Inc. (Nextel) at 500 Highland Avenue in Cheshire as transferred by Nextel, and authorizes the Town Manager to execute the Equipment Abandonment and Transfer of Ownership Agreement between the Town of Cheshire and Nextel for said personal property.

#### **Discussion**

Mr. Milone stated that Fire Chief Casner and Police Chief Dryfe feel this is more than adequate and Homeland agrees to turn the equipment shelter over to the Town. It will be used to store the Town's equipment, and will be relocated to the cell tower at the WWTP when the tower is constructed.

It was stated by Mr. Sima that the new tower has not yet received Siting Council approval; the Town is taking ownership of the Nextel equipment; and he asked what will be done with the storage shelter.

Mr. Milone said it could be used for storage by the Police Department.

Mr. Sima asked about communication equipment and material to be left by Nextel, and noted some of the equipment has metal parts and there would be disposal fees. He questions the Town taking this property, and is not confident to move forward.

Regarding the contents of the shelter building, Mr. Milone will check and find out what is in the building. He said Chief Dryfe saw advantages to having the larger building for storage. This agenda item can be moved to the December 9<sup>th</sup> meeting.

Ms. Flynn-Harris commented on the fact that Nextel will take anything of value out of the building, leaving little behind for the Town. The space is of importance to the Police Chief.

MOTION by Mr. Schrumm; seconded by Mr. Oris.

MOVED to table this agenda item to the December 9, 2014 Town Council Meeting.

VOTE The motion passed unanimously by those present.

## **5. ACCEPTANCE AND APPROPRIATION OF DEEP OPEN SPACE GRANT.**

MOTION by Mr. Schrumm; seconded by Mr. Oris.

BE IT RESOLVED, that the Town Council approves Resolution #112514-3

### RESOLUTION #112514-3

BE IT RESOLVED, that Town Manager Michael A. Milone of the Town of Cheshire be and hereby is authorized to execute on behalf of the Town of Cheshire a Grant Agreement and Conservation and Public Recreations Easement and Agreement under the Open Space and Watershed Land Acquisition Program with the State of Connecticut for financial assistance to acquire permanent interest in land known as Puchalski Property, Cheshire & Prospect, OSWA-437 and to manage said land as opens pace land pursuant to Section 7-131d of the Connecticut General Statutes.

#### Discussion

Mr. Schrumm noted that this is the long awaited money for the Puchalski Property.

The Council was informed by Mr. Milone that the balance in the Land Acquisition Account is \$1,704,731, and this includes the \$1 million approved at referendum.

VOTE The motion passed unanimously by those present.

## **6. APPOINTMENTS TO BOARDS AND COMMISSIONS**

MOTION by Ms. Nichols; seconded by Mr. Talbot.

MOVED that the Town Council approve the following appointments.

Performing and Fine Arts Committee – Jill Veiga (R) to fill the vacancy of Cheryl Pinkham, term of office 11/25/14 to 1/31/15.

Public Building Commission – Richard C. Clavet (R) to fill the vacancy of Keith Goldberg, term of office 11/25/14 to 1/31/17.

VOTE The motion passed 8-1; Sima opposed.

Agenda item #8 was moved to current status on the agenda.

**8. LAND TRANSFER (possible executive session).**

MOTION by Mr. Schrumm; seconded by Mr. Ruocco.

BE IT RESOLVED, that the Town Council approves Resolution #112514-4

RESOLUTION #112514-4

BE IT RESOLVED, That the Town Council shall hold a public hearing to consider a transfer of an approximate 0.04 acre portion of property abutting the road at the corner of Jinny Hill Road and Sperry Road to the Town from the current property owners, and

BE IT FURTHER RESOLVED, that the Town Manager shall cause a notice of said public hearing to be posted and published according to law, and

BE IT FURTHER RESOLVED, that the date, time, and place or any postponements thereof shall be determined by the Town Manager with the approval of the Chairman of the Council.

VOTE The motion passed unanimously by those present.

Mr. Milone informed the Council that Tax Assessor Panagrosso will be present at the December 9<sup>th</sup> meeting to review and discuss the value of the subject property.

**7. BAKER AND UGRIN LITIGATION SETTLEMENT  
(possible executive session)**

MOTION by Mr. Schrumm; seconded by Mr. Talbot.

MOVED that the Town Council enter Executive Session at 8:22 p.m. to discuss pending litigation, to include Town Manager Milone and Town Attorney Smith.

VOTE The motion passed unanimously by those present.

MOTION by Mr. Sima; seconded by Mr. Talbot.

MOVED to exit Executive Session at 8:45 p.m.

VOTE The motion passed unanimously by those present.

MOTION by Mr. Sima; seconded by Ms. Nichols.

BE IT RESOLVED, that the Town Council approves Resolution #112514-4.

RESOLUTION #112514-4

BE IT RESOLVED, that the Town Council approves the Settlement Agreement by and between Lisa Baker and the Town of Cheshire under the terms as presented, and authorizes Town Manager Michael A. Milone to execute said Agreement.

Discussion

Mr. Oris stated that he would vote against the resolution since it does not require disclosure of this situation on the land records, but he recognized that the agreement does require that the Bakers disclose this information to all potential buyers.

VOTE In favor -6; Linehan, Flynn-Harris, Talbot, Slocum, Ruocco, Nichols.  
Opposed – 3; Oris, Schrumm, Sima.  
The motion passed 6-3.

MOTION by Mr. Sima; seconded by Ms. Nichols.

BE IT RESOLVED, that the Town Council approves Resolution #112514-5.

RESOLUTION #112514-5

BE IT RESOLVED, that the Town Council approves the Settlement Agreement by and between Craig and Samantha Ugrin and the Town of Cheshire under the terms as presented, and authorizes Town Manager Michael A. Milone to execute said Agreement.

VOTE In favor -6; Linehan, Flynn-Harris, Talbot, Slocum, Ruocco, Nichols.  
Opposed – 3; Oris, Schrumm, Sima.  
The motion passed 6-3.

**9. ADJOURNMENT**

MOTION by Mr. Schrumm; seconded by Mr. Ruocco.

MOVED that the Town Council adjourn the special meeting at 8:55 p.m.

VOTE           The motion passed unanimously by those present.

Attest:

---

Marilyn W. Milton, Clerk