

CITY CLERK'S OFFICE

DATE 3/6/18 TIME 11:13 AM

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**AGENDA**

**REGULAR MEETING**

**SANTA FE SOLID WASTE MANAGEMENT AGENCY  
JOINT POWERS BOARD**

**MARCH 15, 2018**

**5:00 P.M.**

**LEGAL CONFERENCE ROOM**

**SANTA FE COUNTY ADMINISTRATION BUILDING**

**102 GRANT AVENUE**

**SANTA FE, NM**

- I. Call to Order**
- II. Roll Call**
- III. Approval of Agenda**
- IV. Approval of Consent Calendar**
- V. Approval of Minutes:** Regular Meeting – February 15, 2018
- VI. Matters from the Public**
- VII. Consent Calendar**
  - A. Request for Approval of Sole Source Vendors.
    - (1) Andela Products, Ltd., Richfield Springs, NY.
    - (2) CP Manufacturing, Inc., San Diego, CA.
    - (3) Smoracy, LLC (Bandit Industries), Remus, MI.
    - (4) Van Dyk Baler Corp. (Van Dyk Recycling Solutions), Stamford, CT.
  - B. Request for Approval to Award Bid No. '18/09/B, Glass Hauling Services for the Buckman Road Recycling and Transfer Station to ProMotion Transportation, Inc. of Espanola, NM; Martinez Trucking of Espanola, NM; and Bobby Garcia Trucking, Inc., of Fairview, NM.
    - (1) Approval of Services Agreement with ProMotion Transportation, LLC.
    - (2) Approval of Services Agreement with Martinez Trucking.
    - (3) Approval of Services Agreement with Bobby Garcia Trucking, Inc.
    - (4) Approval of Budget Increase to 52504.510310 (Service Contracts) from 5500.100700 (Operating Fund Cash) in the Amount of \$50,000.00.
  - C. Request for Approval of Change Order Nos. 2 and 3 to Agreement with Cooperative Educational Services (CES)/ TLC Company, Inc., of Albuquerque, NM, Project No. '17/42/B, to Extend the Contract Time and Expand the Work of the Water Line and Misting System Improvement Project at the Buckman Road Recycling and Transfer Station in the Amount of \$1,451.60.

D. Request for Approval to Increase Purchase Order No. 17186766 for Additional Parts and Repairs for the Reconditioning of the Engine and Associated Components of Unit 1309 (Caterpillar D8R Waste Handler Track-Type Dozer) with Wagner Equipment Company of Albuquerque, NM, under RFB No. '16/08/B in the Amount of \$11,570.20.

(1) Approval of Budget Increase to 52501.520400 (Repair & Maintenance of Equipment and Machinery) from 5502.100700 (Equipment Replacement Reserve Fund) in the Amount of \$11,570.20.

E. Request for Approval of Amendment No. 4 to the Services Agreement with Friedman Recycling of Albuquerque, LLC of Albuquerque, NM, to Amend the Compensation for the Processing and Marketing of Residential and Commercial Recyclable Materials for the Santa Fe Solid Waste Management Agency in the Amount of \$160,000.00 (RFP No. '15/31/P).

(1) Approval of Budget Increase to 52504.510310 (Service Contracts) from 5500.100700 (Operating Fund Cash) in the Amount of \$160,000.00.

**VIII. Matters from the Executive Director**

A. Presentation, Discussion, and Possible Action on the Fiscal Year 2018-2019 Proposed Budget.

**IX. Matters from the Board**

A. Election of Chair and Vice Chair.

**X. Matters from Staff – Agency, City, County**

**XI. Next Meeting Date: April 19, 2018**

**XII. Adjournment**

Anyone needing further information or requiring special needs for the disabled should contact Rosalie Cardenas at (505) 424-1850, extension 150.

**SUMMARY OF ACTION**  
**SANTA FE SOLID WASTE MANAGEMENT AGENCY**  
**JOINT POWERS BOARD**  
**SANTA FE COUNTY ADMINISTRATION BUILDING, LEGAL CONFERENCE ROOM**  
**102 GRANT AVENUE**  
**THURSDAY, MARCH 15, 2018, 5:00 PM**

<u>ITEM</u>	<u>ACTION</u>	<u>PAGE</u>
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APPROVAL OF MINUTES FEBRUARY 15, 2018	APPROVED	2
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REQUEST FOR APPROVAL OF CHANGE ORDER NOS. 2 AND 3 TO AGREEMENT WITH COOPERATIVE EDUCATIONAL SERVICES (CES)/TLC COMPANY, INC., OF ALBUQUERQUE, NM, PROJECT NO '17/42/B,	APPROVED	3-4

REC'D CLERK RECORDED 03/15/2018

TO EXTEND THE CONTRACT TIME AND EXPAND THE WORK OF THE WATER LINE AND MISTING SYSTEM IMPROVEMENT PROJECT AT THE BUCKMAN ROAD RECYCLING AND TRANSFER STATION IN THE AMOUNT OF \$1,451.60.

REQUEST FOR APPROVAL TO INCREASE PURCHASE ORDER NO. 17186766 FOR ADDITIONAL PARTS AND REPAIRS FOR THE RECONDITIONING OF HE ENGINE AND ASSOCIATION COMPONENTS OF UNIT 1309 (CATERPILLAR D&R WASTE HANDLER TRACK-TYPE DOZER) WITH WAGNER EQUIPMENT COMPANY OF ALBUQUERQUE, NM, UNDER RFB NO. '16/08/B IN THE AMOUNT OF \$11,570.20. APPROVED ON CONSENT 4

REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO THE SERVICES AGREEMENT WITH FRIEDMAN RECYCLING OF ALBUQUERQUE, LLC OF ALBUQUERQUE, NM, TO AMEND THE COMPENSATION FOR THE PROCESSING AND MARKETING OF RESIDENTIAL AND COMMERCIAL RECYCLABLE MATERIALS FOR THE SANTA FE SOLID WASTE MANAGEMENT AGENCY IN THE AMOUNT OF \$160,000.00 (RFP NO. '15/31/P). APPROVED 4-15

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PRESENTATION, DISCUSSION AND POSSIBLE ACTION ON THE FISCAL YEAR 2018-2019 PROPOSED BUDGET. INFORMATION/DISCUSSION 16-18

MATTERS FROM THE BOARD

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SEC. CLERK RECORDED 45/51/2018

**CITY, COUNTY**

**NEXT MEETING DATE**

**APRIL 19, 2018**

**19**

**ADJOURNMENT**

**ADJOURNED**

**19**

**SANTA FE SOLID WASTE MANAGEMENT AGENCY  
JOINT POWERS BOARD  
SANTA FE COUNTY ADMINISTRATION BUILDING, LEGAL CONFERENCE ROOM  
102 GRANT AVENUE  
THURSDAY, MARCH 15, 2018, 5:00 PM**

**1. CALL TO ORDER**

The meeting of the Santa Fe Solid Waste Management Agency Joint Powers Board was called to order by Councilor Michael Harris, Chair, at 5:00 pm on Thursday, March 15, 2018, at the Santa Fe County Administration Building, Legal Conference Room, 102 Grant Avenue, Santa Fe, New Mexico.

**2. ROLL CALL**

**MEMBERS PRESENT**

Councilor Michael Harris, Chair  
Commissioner Anna Hamilton, Vice Chair  
Councilor Renee Villarreal  
Councilor JoAnne Vigil Coppler  
Commissioner Ed Moreno  
Commissioner Anna Hansen

**MEMBERS ABSENT**

**OTHERS PRESENT**

Randall Kippenbrock, Executive Director, SWMA  
Catie Carter, Environmental Services  
Joe Eiger, Eldorado Recycling  
Yvonne Herrera, SWMA  
Les Francisco, Santa Fe County  
Jane Bias, Educational/Outreach Coordinator, SWMA  
Shirlene Sitton, Environmental Services  
David Friedman, Friedman Recycling  
Neal Denton, Santa Fe County  
Jonas Nahoum, Long, Comer and Associates  
Rosalie Cardenas, SWMA  
Elizabeth Martin, Stenographer

Chair Harris congratulated Councilor Vigil Coppler on her election and welcomed her as a member of the Board.

**3. APPROVAL OF AGENDA**

**MOTION** A motion was made by Commissioner Hamilton, seconded by Commissioner Hansen, to approve the agenda as presented.

**VOTE** The motion passed unanimously by voice vote.

**4. APPROVAL OF CONSENT CALENDAR**

Commissioner Hamilton asked to discuss Item E.

Councilor Harris asked to discuss Item C.

**MOTION** A motion was made by Councilor Villarreal, seconded by Councilor Vigil-Coppler, to approve the Consent Calendar as amended.

**VOTE** The motion passed unanimously by voice vote.

**5. APPROVAL OF MINUTES  
FEBRUARY 15, 2018**

Chair Harris said on page 1, in the Call To Order, he is noted as a Commissioner rather than a Councilor.

Commissioner Hansen said on page 1, in the Others Present list, her Constituent Liaison, Maria Rotunda, was in attendance and is not listed.

**MOTION** A motion was made by Commissioner Hansen, seconded by Councilor Villarreal, to approve the minutes as amended.

**VOTE** The motion passed unanimously by voice vote.

**6. MATTERS FROM THE PUBLIC**

Mr. Eiger said he is very glad to be back. He missed a very important meeting last month. He has been introduced to Jane and is looking forward to working with her.

Chair Harris said thank you.

Councilor Villarreal asked that everyone introduce themselves.

They did so.

**7. CONSENT CALENDAR**

**A. REQUEST FOR APPROVAL OF SOLE SOURCE VENDORS**

1. ANDELA PRODUCTS, LTD., RICHFIELD SPRINGS, NY.
2. CP MANUFACTURING, INC., SAN DIEGO, CA
3. SIMORACY, LLC (BANDIT INDUSTRIES), REMUS, MI
4. VAN DYK BALER CORP. (VAN DYK RECYCLING SOLUTIONS), STAMFORD, CT

Approved on consent.

**B. REQUEST FOR APPROVAL TO AWARD BID NO. '18/09/B, GLASS HAULING SERVICES FOR THE BUCKMAN ROAD RECYCLING AND TRANSFER STATION TO PROMOTION TRANSPORTATION, INC. OF ESPANOLA, NM; MARTINEZ TRUCKING OF ESPANOLA, NM; AND BOBBY GARCIA TRUCKING, INC., OF FAIRVIEW, NM.**

1. APPROVAL OF SERVICES AGREEMENT WITH PROMOTION TRANSPORTATION, LLC
2. APPROVAL OF SERVICES AGREEMENT WITH MARTINEZ TRUCKING
3. APPROVAL OF SERVICES AGREEMENT WITH BOBBY GARCIA TRUCKING, INC.
4. APPROVAL OF BUDGET INCREASE TO 52504.510310 (SERVICE CONTRACTS) FROM 5500.100700 (OPERATING FUND CASH) IN THE AMOUNT OF \$50,000.00.

Approved on consent.

**C. REQUEST FOR APPROVAL OF CHANGE ORDER NOS. 2 AND 3 TO AGREEMENT WITH COOPERATIVE EDUCATIONAL SERVICES (CES)/TLC COMPANY, INC., OF ALBUQUERQUE, NM, PROJECT NO '17/42/B, TO EXTEND THE CONTRACT TIME AND EXPAND THE WORK OF THE WATER LINE AND MISTING SYSTEM IMPROVEMENT PROJECT AT THE BUCKMAN ROAD RECYCLING AND TRANSFER STATION IN THE AMOUNT OF \$1,451.60.**

Chair Harris said he thinks the proposed change orders are very fair. He wanted to note that there were no general conditions attached. That is very fair of TLC. He wondered since TLC is on the job now can you get some estimates on some of the other mechanical work. In our capital budget you have \$40,000 for mechanical work and odds

and ends.

Mr. Kippenbrock said those are just general. Normally we have that reference in the budget for something that needs to be fixed. It is general and miscellaneous.

**MOTION** A motion was made by Councilor Villarreal, seconded by Commission Hansen, to approve the request.

**VOTE** The motion passed unanimously by voice vote.

**D. REQUEST FOR APPROVAL TO INCREASE PURCHASE ORDER NO. 17186766 FOR ADDITIONAL PARTS AND REPAIRS FOR THE RECONDITIONING OF THE ENGINE AND ASSOCIATION COMPONENTS OF UNIT 1309 (CATERPILLAR D&R WASTE HANDLER TRACK-TYPE DOZER) WITH WAGNER EQUIPMENT COMPANY OF ALBUQUERQUE, NM, UNDER RFB NO. '16/08/B IN THE AMOUNT OF \$11,570.20.**

**(1) APPROVAL OF BUDGET INCREASE TO 52501.520400 (REPAIR AND MAINTENANCE OF EQUIPMENT AND MACHINERY) FROM 5502.100700 (EQUIPMENT REPLACEMENT RESERVE FUND) IN THE AMOUNT OF \$11,570.20.**

Approved on consent.

**E. REQUEST FOR APPROVAL OF AMENDMENT NO. 4 TO THE SERVICES AGREEMENT WITH FRIEDMAN RECYCLING OF ALBUQUERQUE, LLC OF ALBUQUERQUE, NM, TO AMEND THE COMPENSATION FOR THE PROCESSING AND MARKETING OF RESIDENTIAL AND COMMERCIAL RECYCLABLE MATERIALS FOR EH SANTA FE SOLID WASTE MANAGEMENT AGENCY IN THE AMOUNT OF \$160,000.00 (RFP NO. '15/31/P).**

**(1) APPROVAL OF BUDGET INCREASE TO 52504.510310 (SERVICE CONTRACTS) FROM 5500.100700 (OPERATING FUND CASH) IN THE AMOUNT OF \$160,000.00.**

Commissioner Hamilton said there are a number of things here that give her some concern. This is a long standing problem that we have had some very recent meetings on. Both the County and the City have issues and questions. She would like to have some discussion tonight to clear up some things, but thinking about those questions she is going to want to table this until next month or until a special meeting so that the information can be brought back to us.

Chair Harris said he would like to hear the questions.

Commissioner Hamilton said some of the items in the amendment have a potential need for more negotiation such as transportation costs.

Mr. Denton said item 1K.

Commissioner Hamilton said we also requested getting the Albuquerque amendment so we can see what they negotiated before we approve this. She frankly thinks that County Legal wants a chance to look at this. It looks very much like we are directly subsidizing a private company. There are legal issues to address with that. She has tremendous sympathy for them and we have a long, good relationship with them, but we are in a position to have to rebid and do a new RFP. There is discussion about putting out an RFP that includes more than just these recycling services. She understands that 2 to 3 years of recovery is a modest estimate at best and that we are going to be in the position of having serious concerns. We have to have something in place in July. What have we been doing, especially knowing there is this huge problem.

Chair Harris said July 15, 2018 is the end of the 3rd year of a 4 year contract.

Commissioner Hamilton said she apologized, she thought it was a complete rebid.

Chair Harris said we talked about an RFP as a possibility, but did not direct Mr. Kippenbrock to do that.

Commissioner Hamilton said she strongly suggests we discuss and go forward with an RFP. We need to think more outside of the box under these economic circumstances.

Commissioner Hansen said she has a memo with a list of questions and concerns. The list is attached herewith to these minutes as Exhibit "1".

Commissioner Hansen reviewed the list.

Commissioner Hamilton said this may lead to amendment changes for negotiation. These are things we need to discuss and talk about.

Chair Harris said he would like to get these things identified.

Commissioner Hansen said there is also more information to discuss. She agrees with her colleague. She thinks an RFP is necessary and that we start opening one right away. We need to think about all the possible alternatives. When she was in Washington last week she talked to Congressman Lujan and he was very concerned when she brought this to his attention. It is a big issue for the whole western part of the

United States. These are serious recycling issues.

Chair Harris said there are a lot of questions about the amendment to the contract. The 4<sup>th</sup> year of the contract has to be voted on to renew. His thought was the County Attorney is going to weigh in on some of the questions you have raised. Many are technical in nature. It is possible our legal representative may want to look at this. That is appropriate. The County or City Attorney may have some questions. It is an appropriate charge to look to Jonas to scour through these things.

Commissioner Hamilton said when you look through some of the specifics in the memo some may be legal issues, but some are negotiation points. We are already getting the Albuquerque amendment. She wants to know what the other groups are doing to see what the possibilities are. Some of those should be reviewed by legal. The issue of changing the contract and subsidizing a private company is something that Nancy and Jonas need to look at.

Chair Harris said he agrees as far as revisions to the contract. He doesn't know that subsidizing is the right word. That is a question Jonas and Nancy need to look at.

Mr. Nahoum said we would need more time to get more information and handle these questions.

Councilor Villarreal said she is wondering if those questions are good questions to bring up in the part in our packet about the other contracts with Albuquerque, Las Cruces and El Paso. They have not amended their contracts. She would like to see what Albuquerque finally negotiates. It would be good to see what is happening in other places. Those are her concerns. It does not feel as though she has a grasp on how this will effect our City budget. Those hearings are coming up. What do we have to anticipate for those costs.

Commissioner Hamilton asked Neal if Albuquerque agreed to send him their amendment.

Mr. Denton said not to him. They are supposed to send it to Randall.

Councilor Villarreal said we budgeted, but she doesn't know if that is what we anticipated. We talked about it at the last meeting, but she wants to make sure we all know.

Chair Harris said that really occurs around our budget. One of his questions is he assumes any proposed increase will be presented next month for analysis, but any proposed increase is not found in this draft budget, correct. There is no increase in fees.

Mr. Kippenbrock said his goal was to submit that in April or May.

Chair Harris said he knows in the proposed budget there is a projection for certain increases associated with this amendment, but not a fee increase.

Mr. Kippenbrock said correct.

Chair Harris said we still have net revenues so right now, where we sit, it does not effect the City budget.

Ms. Sitton said we reflected the \$500,000 estimate in our budget and fees. The City Environmental Services budget reflects the proposal we currently have.

Commissioner Hamilton asked does the city recoup all the costs.

Ms. Sitton said we are an enterprise fund so at some point we may have to increase our rates. We have not done that yet. We are prepared to absorb some costs. We planned for it in our budget.

Commissioner Hamilton said so it has a fiscal impact even if it is passed on to City residents. That has to be considered. It will have a budget impact on the County. It will impact our budget and fees for the residents.

Chair Harris asked how far do we need to go in discussing amendment 4 right now.

Commissioner Hamilton said if there are comments people want to make they should make them. That is why she said she was thinking about tabeling this until after the discussion.

Commissioner Hansen asked what are the effects of us tableing this. How does Friedman deal with that. We need answers to these questions. We need to know what the time index is. If it is tabled does that mean we start backing up our own recycling. These questions are pertinent to this discussion beyond just tabling this amendment. It is not just a simple tableing.

Chair Harris lets turn to our legal council as we work through this. We are in the 3<sup>rd</sup> year of a 4 year contact that needs to be renewed after the 4<sup>th</sup> year. We did agree to a different formula for a certain time. That time has lapsed. He assumes we go back to the terms of the contract.

Mr. Nahoum said correct

Chair Harris said Friedman is still under contract and the formula we devised goes away. That is how he sees it from an agency point of view.

Mr. Friedman said he acknowledges all your questions and concerns are

SEC STAFF RECORDED 05/01/2018

legitimate and he is happy to address them. It is not correct to categorize this as a subsidy to a private company. We have a contract negotiated 3 or 4 years ago under conditions at that time. We had unprecedented intervention from China. Friedman is unable to uphold the terms of that contract. We are sensitive to the impact of any kind of disruption to the recycling programs. We understand this happened very fast. We are doing the best we can to accommodate the situation as best as we can. It is more accurate to say Friedman is supplementing the agency programs. This is the new reality and we are attempting to show what it will take to support this reality. We have a pretty good understanding of where we are at. We are bleeding. Costs are surging and we cannot continue to do this for much longer. This amendment is only a 4 month amendment. If the agency wants to go out to bid fine. In that time we continue to subsidize your program. We have financial partners and we cannot afford to subsidize this program. We would have a claim of 'force majeure'. The entire second shift is coming out of our bottom line and reserves. In regards to the amendment with the City of Albuquerque, it is virtually identical to this amendment. The fundamental parts of it are the same. He can assure the Board that the business deal is virtually identical. Las Cruces and El Paso are different. The cost structure is different. Our attempt is not to make more money, it is to stop losing money. He can get the Albuquerque amendment for you in 5 minutes. This is only a 4 month amendment. He will go month to month if you want but he cannot continue to have an open ended agreement. Albuquerque should sign theirs by end of next week. Las Cruces is the next week. El Paso is unknown at this time because there is more push back there. The other 2 have verbally acknowledged their approval.

Chair Harris asked what is the term of the Albuquerque amendment.

Mr. Friedman said it is a one year supplement agreement with the option to renew for 2 years after that.

Chair Harris asked what is the term for Las Cruces.

Mr. Friedman said one year with the option to renew.

Chair Harris asked what was their analysis on options.

Mr. Friedman said he doesn't know. He is not privy to those conversations.

Mr. Kippenbrock said this situation is unprecedented. Even today when he looks at the public price index typically newspaper sells at \$100 per ton, now the index is \$20 per ton. To address some of the questions on Commissioner Hansen's list, we have multiple price indexes. We want to get the best deal so we have more than one. Typically your plastic water bottles number 1 usually stays in the United States. The fiber and cardboard goes to China because that is where the market is. It is all about transportation. He did go down to Friedman today to see what is going on. They have a glut of material that needs to be moved, but until they have buyers they can't move it.

The model we did 3 years ago worked at the public index with a net revenue of 7 to 20 a ton. With the China situation they don't want any mixed paper. That is the real dilemma. When we talk about contamination, it takes now 2 shifts to do the same amount of material. He saw 50 some employees working on the sort line. That would have not have occurred 6 months ago. China went from accepting 5% contamination to less than half a percent contamination. The market will correct over the next 2 to 3 years, but until then we have to do something.

Mr. Kippenbrock said on page 6, that is tough language, but it must be agreed to by both parties. Mr. Freidman was not comfortable so we said by mutual agreement. Item J is saying we are identifying all the indexes. That is what they are referring to . If another index that is higher then we go with the higher one. K, that is a tough one. It is mostly for plastic, mixed plastic or mixed paper. If they are only selling 50% of it we will adjust for residual contamination. We talked about giving away the material or taking a loss to minimize material going into the landfill. That is something we are working on.

Mr. Kippenbrock said he looked at the Chris Bell report paid for by the City of Albuquerque. Our operating costs are \$122 per ton. That is up from \$95 a ton before all this came down. The City of Albuquerque will be paying roughly \$122 a ton, similar to what we pay. Las Cruces and El Paso are similar. Everyone received similar proposals from Friedman. We decided to take one step at a time and complete the year. The Board asked for an RFP and he was given direction to look at what other things are out there. His recommendation is to approve this amendment number 4 while we go through that process. The current situation is particular to the western United States. The old model is no longer effective. Larger operations are using up-front processing fees and any revenue is generated on the back side. We were working with rebates on that. 6 months ago we were looking at \$65,000 to \$70,000 in revenues. Last month was zero. At \$45 to \$55 a ton we will have to pay Friedman for every ton delivered. The impact to the County will be \$80,000 to \$100,000 per year. That is what we are looking at.

Commissioner Hamilton said on K, the idea that you were just down there and there was a glut of material, this provision says after 3 months it will all be sent back to us. This opens the possibility of that.

Mr. Kippenbrock said under the first 3 months it is still their responsibility. On month 4 they will recognize that percentage they are unable to move as part of our calculations. K is designed to adjust the average market value of what they cannot move.

Commissioner Hamilton said there is a piece that says after 3 months it will be classified as residuals. Residuals are sent back to us to go into the landfill. It seems to her that almost immediately things are not moving. We could have a high percentage of residuals coming back to the landfill.

Mr. Kippenbrock said it would be for the 3 materials he mentioned.

Mr. Friedman said that glut is separate and was sorted prior to the China ban. We are designed now to meet the China specifications. Mixed plastic and mixed paper are banned. There is no market for that material. We acknowledge the reality. If it is not marketable we have to call it residuals.

Commissioner Hamilton asked what do you estimate.

Mr. Friedman said with the new sorting process we have a new way to pull out from those categories. That minimized the generation of mixed paper. The percentages will be relatively small, but will exist.

Commissioner Hamilton asked what is your estimation of that.

Mr. Friedman said Randall has asked us to do a composition audit and we will be able to tell you exactly the percentages from that.

Commissioner Moreno asked how much time will the audit take.

Mr. Friedman said it disrupts the operation of the facility. It takes 2 weeks to get it into the schedule and one day to do it.

Mr. Kippenbrock said we deliver one week of material to Friedman and they process that material to get the percentage.

Chair Harris said in fact this fiscal year, given the situation we have been in, for the last several months, we have not increased our tipping fees and the City nor the County have increased fees to customers, is that correct.

Mr. Kippenbrock said yes for this fiscal year.

Chair Harris said in the proposed budget you don't show an increase in fees.

Mr. Kippenbrock said correct.

Ms. Sitton said she is actually surprised that Randall did not have this in his budget. He must have a different tact or plan to introduce that. We should expect an increase in our fees to the agency due to this. She is anticipating that it will be a reality.

Commissioner Hamilton said how can it not be a reality.

Chair Harris said they are also anticipating an increase in revenue. It is not a budget buster at this point. We need to understand this budget now. We have not increased fees this year and the proposed budget does not show increased fees for next

year. Our proposed budget tonight does not have that in it.

Commissioner Hamilton said she does not understand mathematically how that works. Randall you made the estimates for the next 4 months. It is a \$160,000 cost.

Chair Harris said the budget covers recycling as well as the landfill itself. If we put these numbers in, recycling is a loss leader.

Chair Harris asked Jonas, assume you have looked at the contract and amendments. What is your initial reaction to what Mr. Friedman said.

Mr. Nahoum said he is not prepared to opine on a 'force majeure'. It is a matter of negotiation now. If the contractor is saying they cannot continue to perform the contract that is certainly an argument that is available to him.

Commissioner Hansen said the last thing she wants to see is our recycling program end. That concerns her. That is something she is very concerned about. We have all invested in single stream and in educating our constituents about the importance of recycling, but we are facing a serious issue of being able to find providers to take the product. We have Friedman, but he has to find someone to take the product. What is the possibility of giving this stuff away.

Mr. Friedman said it is a possibility, in fact we are contemplating that now. We are hoping to transport some material to Louisiana. The effect is zero to us. We are looking to keep the machine moving, programs in operation and to stop the bleeding. As long as we not losing money we are happy to do that.

Commissioner Hansen said she does not want to see it go to the landfill. It defeats the purpose of recycling. If we have to give away is there a way, since mixed paper is a big problem for us, to educate our constituents to give us just newspaper.

Chair Harris said we are just about to the end of how far we can get in this discussion.

Mr. Friedman said the markets will even out eventually. Education is possible, but it is a time extensive process. He firmly believes the markets will come back.

Commissioner Hansen said it is all about transportation. That is what we are paying for, right.

Mr. Friedman said it is labor intensive to get the materials in the ways they need to be to be accepted.

Councilor Vigil Coppler said she sees this as kicking the can down the road. If we table this the issues will not go away. The China thing has presented an obstacle.

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5/5/17  
2:28:10

She thinks we have to decide if an RFP in the future will resolve any of this at all. If China is still reluctant we are in the same boat. We still have to think about the environment and what we are allowing to go into the landfill. If there are not a lot of providers willing to do this it may be best to bite the bullet and approve this. She doesn't see anything changing. If we don't want to educate our consumers to scale back on recycling we are in the same boat.

Commissioner Hamilton said she understands what she is saying. She is not trying to kick the can down the road. She has raised specific points. She would like to table this, but not necessarily to next month. If it only takes a week for the City and County legal to review and revise this if needed she would like to give them an opportunity to do that and then have a special meeting. A month postponement would be egregious.

Commissioner Hamilton said with regard to the RFP, there are potentially other options rather than traditional recycling. If it takes 2 years we will have to continue for 2 years. Canning recycling entirely would be horrible. The intent of an RFP is to look at the much bigger picture including incineration, composting and what ever other options there are. We clearly have to keep the program going while looking at these options.

Commissioner Moreno said he proposes another meeting fairly soon maybe in a workshop fashion, non decision making, to explore all of our options. We may be stuck with something in the short term, but it might give us more information and some breathing room in order to move forward. It could be a bit more broader discussion about the whole thing.

Commissioner Hansen said she is hearing from Freidman that they do not have any more breathing room. They need us to agree to this on a month to month basis or for 4 months. She does agree on having a workshop to explore other possibilities, but we do need to make a decision soon on this contract because we could end our recycling program and we could be in legal jeopardy if not. If possible she would like to have a special meeting in a week and negotiate some of these points and come back and make a decision in favor of this.

Chair Harris said he would like to consider while we do that keeping the stream of material moving. We don't know how the legal arguments will shake out. He would like to consider going month to month and look at options with an RFP.

Commissioner Hamilton said that may not be a bad idea. If we approve this amendment for one month we would have time to review the questions and possibly approve a revised amendment. She is looking for time. She is sympatric to Freidman not having time. If it would not be impossible to incorporate information gained in the next month she would go with month to month for now.

Mr. Nahoum said he does not see any legal issue with approving the amendment

for a month today and perhaps doing a revised amendment at the end of this month.

Commissioner Hamilton said she would like the idea of looking at options and an RFP in addition to this.

Mr. Kippenbrock said if the amendment is approved for one month you are also approving for January and February at zero dollars and March at this public index.

Chair Harris said he would like to entertain a motion on the amendment only and then discuss the RFP and other matters after that.

**MOTION** A motion was made by Commissioner Hansen, seconded by Councilor Vigil Coppler, to approve the amendment to the contract for one month which will include January and February at no cost and March as indexed.

**VOTE** Chair Harris requested a roll call vote. The motion passed unanimously by roll call vote as follows:

Commissioner Hamilton - yes, Commissioner Hansen - yes, Councilor Vigil Coppler - yes, Councilor Villarreal - yes, Commissioner Moreno - yes, Chair Harris - yes.

Chair Harris said now lets talk about the intermediate step and what that looks like.

Commissioner Hamilton said we need to put some serious effort into considering alternatives. We may not change substantially from what we doing now, but given the circumstances of the market we need some strategic planning. She would like us to frankly have the agency meet with County Sustainability and City Sustainability to think about putting an RFP together. She is of mixed mind of going straight to an RFP or requesting presentations.

Councilor Harris said the time involved in that would be considerable. He believes we need to look at the options through an RFP to different vendors and see what is out there. That will either head us in another direction or affirm that Friedman is the best option. There is agreement within this Body that we have to keep the recycling program alive. Commissioner Hamilton is saying it could be reconfigured somewhat. He doesn't know what that would be.

Commissioner Hamilton said the County has been presented with new technology and new options. She thinks the City has too. She understands that other options are not now feasible. In 3 or 4 years they may be. Are there some pilot projects for incineration or composting or other types of options. Recycling is part of what SWMA is supposed to do.

Chair Harris said understood. Month to month is short term. What you are proposing is much longer term. He is trying to define what an intermediate program looks like. What are we going to do for the next several months or year. The 3<sup>rd</sup> term is up July 15<sup>th</sup>. Is it possible to come up with an analysis of the options and reach a consensus by July 15<sup>th</sup>. Maybe we go out for an RFP for another year. He is trying to slip in the intermediate here.

Commissioner Hansen said she agrees. We need to think about the intermediate and long term. We are facing some serious decisions. We are doing month to month. We are amending the amendment. Do we come back in two weeks or at the next meeting to approve this again with possible amendments that Mr. Kippenbrock, Mr. Friedman and our Board Attorney can work out.

Chair Harris said without a study session or workshop but with legal, Mr. Kippenbrock and Mr. Friedman who will come up with something for the balance of this fiscal year.

Commissioner Hansen said yes. The workshop, study session and RFP are one thing. The contract is another thing.

Commissioner Hamilton said she agrees generally, but one thing we need to add it that as you guys work on the amendment you need to keep in email communication with the County and City so that we will not be back next month with the same questions. Our people won't have time to look at it. If we can have an interim project where the City and County are included then we can come back and vote.

Chair Harris said he agrees that getting the information and some lead time to review it is a great idea.

Commissioner Hamilton said we are mixing the RFP issue. She would see it as an intermediate step to inform the final year of the contract. It would not be as expansive as what we could cover in a workshop. We could look at a bigger set of options.

Chair Harris said this in a way is a procurement question. We have a contract potentially coming up for renewal. What is the procurement issue with putting out another RFP. He thinks we need a separate discussion or study session in 2 weeks. The agenda would be the validity of another RFP process and the discussion of any other options available including potentially from staff modifying the program. What other items do you see for the agenda.

Commissioner Hamilton said to her a study session or special meeting means we have to have people make presentations on that sort of stuff. The issue of the validity of an RFP is a separate and easier issue. In the scope of SWMA we can think outside the box on this. The County and City can contribute to that, but she does not see how that

can happen in 2 weeks. We need to consider an RFP sooner than that could happen. Maybe do it at the next meeting.

Chair Harris asked did he hear you, Mr. Kippenbrock, say you have been thinking about an RFP.

Mr. Kippenbrock said we had a discussion with City and County staff this morning.

Mr. Kippenbrock said traditional recycling is Friedman. Other companies will still deal with same dilemma as they are. High processing fees and higher transportation costs are possible. Is it possible for a small company to come in and do a better job. We don't know. 3 years ago when we did the RFP we had 3 companies apply. They would have used our facilities. That was not feasible at that time. As far as new technology, that is 20 to 30 years down the line. You need a lot of material to make some of that feasible. Other types of technology are not proven in field only in the lab. We are rural and spread out. We are the 5<sup>th</sup> largest State with only 2 million people, half in whom live in Albuquerque.

Commissioner Hansen said she has realized after going to Washington how rural we are and how small we are. We tend to forget that. That is a really important point we have to take into consideration.

Chair Harris said we need to decide how we going to proceed and allow staff to work on the legal issues and an RFP.

Commissioner Hamilton said she is going to keep pushing over time for creative thinking and information.

**MOTION** A motion was made by Commissioner Hansen, seconded by Councilor Villarreal, that Mr. Kippenbrock and Mr. Friedman will work together with the Board Attorney on the amendment with regard to the suggestions and questions today and will communicate with the City and the County during the process to enable a timely distribution of the revised amendment and answers to the questions ahead of the next meeting. The Board will discuss those changes to the amendment at the next meeting and will consider a draft RFP.

**VOTE** The motion passed unanimously by voice vote.

Chair Harris said thank you everyone.

**8. MATTERS FROM THE EXECUTIVE DIRECTOR**

**A. PRESENTATION, DISCUSSION AND POSSIBLE ACTION ON THE FISCAL YEAR 2018-2019 PROPOSED BUDGET.**

Chair Harris said he has come to appreciate Mr. Kippenbrock's organization and budgeting skills. He would like to look at this over for the next month. He encourages everyone to direct questions to Mr. Kippenbrock prior to next months meeting. Then we can come together next month for approval. We can have initial questions now.

Chair Harris said his biggest one is goals for 2019 instead of 2018. That is the only mistake he found. A major goal for 2019 is to set new fees and charges for the landfill and the BuRRT facility. He thinks discuss is the better word until we look at it. The proposed budget does not have any new rate structure in it.

Mr. Kippenbrock said in his memo it states that he is working with Friedman to see how this would be for 2019. This document is for introduction only. The way he does the budget is that he does the revenue first then goes line by line for expenses. Last if there is any money left it goes into one of our 5 reserves. We usually have \$1 million plus. This year it is a minimal amount. That is how we were able to balance the budget.

Mr. Kippenbrock said on page 8 of the Board packet at the bottom you will see a transfer out for 2018 a \$1 million. Afer we did the budget for 2019 we will only transfer \$445,000. No money is dedicated for equipment replacement at this time. We do have a reserve fund policy that he is going to bring to the next Board meeting. We do have some unspent money from year to year. There is approximately \$700,000 we could take from cash and move into equipment replacement and capital improvements.

Commissioner Hamilton asked is equipment replacement the most important one.

Mr. Kippenbrock said the regulated driven costs are the most important.

Mr. Kippenbrock said at the next Board meeting if we can approve this proposal he anticipated adding some smaller projects falling under capital improvement and equipment replacement. We are dealing with 2 issues with the Friedman contract and the fiscal year 19 budget. Call him with any questions you may have for next months meeting.

Chair Harris said to Mr. Kippenbrock that he will call and sit down with him.

Commissioner Hamilton said with the proposed budge less than half of what you expect we need in transfers that is a deficit budget. That is a potential problem. What are you juggling when you think we can do it.

Mr. Kippenbrock said new rate increases for certain programs sometime in early fiscal year 19.

Chair Harris said your goals for fiscal year 19 are on page 2. The second bullet down says if approved we could increase our revenue. Who has to act on that.

Mr. Kippenbrock said all 3 Governing Bodies. The Agency, the City and the County. It would be in the form of an amendment to our MOU depending on how our legal council looks at that.

Chair Harris asked could you Jonas look at that for us.

Mr. Nahoum said yes.

Chair Harris said he would like to have some sense of what revenue that would generate. He does not see any reason not to charge a premium on that.

Commissioner Hamilton said that is a good consideration.

Chair Harris said he is willing to work on what we talked about in the past regarding demolition waste. There are 5 major haulers. 4 of the 5 are hauling to us, but one does not for whatever reason. Is that right.

Mr. Kippenbrock said yes. We do have some local private haulers. Western Disposal and Roadrunner are our nemesis. On the construction and demolishing they can take it anywhere they want to. The heavier the load the more likely they are to transport it to the Albuquerque landfill. Albuquerque in on a per ton basis and so are we. One or two tons comes to our facility. Larger ones go south. We have not recovered from the recession of 2007. On the aggregate.

Chair Harris said he will work on this construction waste in the next month. Anything we can do we should do.

Mr. Kippenbrock said the other option is if you amend the City Ordinance to the City doing the entire waste collection within the City limits.

Ms. Sitton said she and Randall have talked about this a number of times. She thinks it would be beneficial. There is a loop hole in the City Ordinance. We are the sole provider for waste. They decided at some point that they did not want to be the sole provider. That was a big mistake. Looking at changing that in the Ordinance would effect local haulers so there will be push back. As part of her cost study we will look at what will be at what cost could we take over that service.

Chair Harris said in the interim we can revise the Ordinance so that any hauler would need to go to our landfill.

Ms. Sitton said there are Federal decisions about that kind of thing. We need to look at it.

Chair Harris said he will commit to work with you and legal on that.

Ms. Sitton said it is flow control. El Paso did that.

Commissioner Hamilton said there is a lot of opportunity.

Ms. Sitton said yes, but it could get very ugly from the local haulers.

Mr. Kippenbrock said we did a study, a plan and a solid waste assessment. Those are our justifications for flow control so there may be minimum legal challenges to that.

Chair Harris said the big projects like DeVargas are not using bins. They are using tractor trailers.

Chair Harris asked are there any other questions on the budget.

Mr. Kippenbrock said we did include \$540,000 for the worst case scenario with Friedman and \$125,000 for transporting 2 tons of glass to Denver.

There were no other budget questions.

Chair Harris said he wants to be sure we have your normal breakdown Randall and the reserve status next month.

## **9. MATTERS FROM THE BOARD**

### **A. ELECTION OF CHAIR AND VICE CHAIR**

Chair Harris said there is a chart showing our history back to 2007 in your packet.

Chair Harris nominated Commissioner Hamilton to serve as Chair from March 2018 to March 2019.

Commissioner Hansen seconded the nomination.

Commissioner Hamilton was elected Chair by unanimous voice vote.

Chair Harris nominated Councilor Villarreal for Vice Chair.

Commissioner Hamilton seconded the nomination.

Councilor Villarreal was elected Vice Chair by unanimous voice vote.

**10. MATTERS FROM STAFF-AGENCY, CITY, COUNTY**

None.

**11. NEXT MEETING DATE  
APRIL 19, 2018**

**12. ADJOURNMENT**

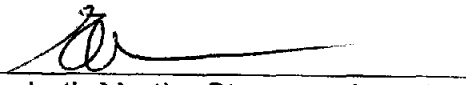
There being no further business before the Board the meeting adjourned at 7:05 pm.

  
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Councilor Michael Harris, Chair

Attested to by:

  
Yolanda [unclear] Clerk

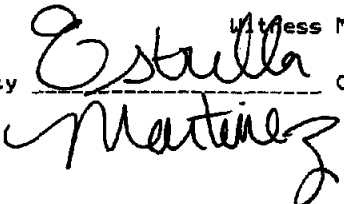


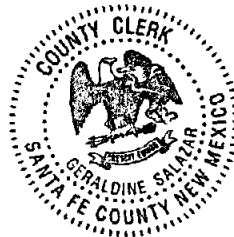
  
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Elizabeth Martin, Stenographer

COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

SWAC MINUTES  
PAGES: 22

I Hereby Certify That This Instrument Was Filed for  
Record On The 1ST Day Of May, 2018 at 09:43:43 AM  
And Was Duly Recorded as Instrument # 1856385  
Of The Records Of Santa Fe County

Deputy  Witness My Hand And Seal Of Office  
Geraldine Salazar  
County Clerk, Santa Fe, NM



SFC CLERK RECORDED 45/41/2018

## Anna C. Hansen

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**From:** Neal Denton  
**Sent:** Thursday, March 15, 2018 2:26 PM  
**To:** Anna T. Hamilton; Anna C. Hansen; Edward H. Moreno; Tina Salazar; Maria Rotunda; Julia Valdez  
**Cc:** Claudia I. Borchert; Erik H. Aaboe; Bruce Frederick; Les Francisco; Robert Martinez; Michael K. Kelley; Katherine Miller; Kristine Mihelcic  
**Subject:** Staff Information on SWMA Agenda 3/15/2018, Item VII-E-1: Amendment No. 4 to Services Agreement with Friedman Recycling of Albuquerque

Good afternoon,

SWMA Agenda 3/15/2018, Item VII-E-1: Amendment No. 4 to Services Agreement with Friedman Recycling of Albuquerque

Should the Friedman Recycling contract amendment be pulled from the consent calendar for discussion this evening, I'd like to offer an updated briefing on the latest regarding the impact of the Chinese government's actions on Friedman Recycling. It may not be ideal to offer any revisions to the proposed amendment given the timeline needed by Friedman to remain financially solvent, but the following items may benefit from additional discussion.

Regarding Contract Amendment No. 4:

- Item 1(D), pg 4: Why are there two indexed for OCC (old corrugated containers)? Why are Plastics #3-#7 and Rigid Plastics using Houston/South Central USA pricing when they have been sold out of LA? The LA price index is used for fibers.
- Item 1(I), pg 6: Is it appropriate to consider diminished tonnage and changes in material composition "acts of god"? Tonnages and material composition routinely fluctuate. By describing these market fluctuations as "acts of god" is the Agency potentially setting an ill-advised legal precedent?
- Item 1(J), pg 15: What are the alternative publication(s) or methods? How will using one be agreed upon?
- Item 1(K), pg 15: Could contract language be added that assurances that Friedman will make all reasonable efforts to sell the material even if they have to give it away to a recycling broker? Could Friedman be required to sell their products when they have a complete order instead of waiting for market prices to increase? If, per the amendment terms, the Agency covers Friedman's processing cost and material has been classified as Residual/Contamination, then it would benefit the Agency (potentially with Friedman) to add a condition to the contract allowing the Agency to find a 'taker' for the material if the cost to do so is less than backhauling and landfilling the material.

Additional Information:

The financial consultant hired by the City of Albuquerque verified the \$122/ton processing cost is accurate. The City of Albuquerque has a contract amendment under development that is understood to be similar to that with the Agency. A copy of it was requested on a 3/9 call, but it has not been provided. It would be beneficial to know Albuquerque's terms since they send the most material to Friedman.

The County's Solid Waste Division submitted a proposed budget with an additional \$100,000 to cover potential increased costs. Randall has indicated that should be sufficient. It is most advantageous to the County to continue accepting the same material as it has proven detrimental to change the rules regularly on customers even if some material will be landfilled as a result. For example, accepting all plastic containers results in more recycling of the marketable #1 and #2s, so if #3-#7 plastics cannot be sold and must be landfilled, it is still beneficial to accept all plastics.

I am here as a resource should you have any additional questions before or during the meeting.