

MINUTES
HORRY COUNTY COUNCIL
Workshop with the Solid Waste Authority
July 28, 2010, 3:00 p.m.
Solid Waste Authority Offices
Hwy. 90, Conway, SC

Horry County Council Members Present: Liz Gilland, Chairman; Harold Worley; Marion Foxworth; Gary Loftus; Howard Barnard; James Frazier; Carl Schwartzkopf; Paul Prince; Jody Prince; and Al Allen.

SWA Board of Directors Members Present: John Long, Basem Hilal, Lance Thompson, Bob Bellamy, and Norfleet Jones. Danny Hardee arrived later in the meeting.

In accordance with the FOIA, notices of the meeting were provided to the press stating the time, date, and place of the meeting.

Call to Order. Ms. Gilland called the meeting to order at approximately 3:05 p.m.

Invocation. Mr. P. Prince gave the invocation.

Ms. Gilland called for the introduction of attendees.

Ms. Gilland stated that the SWA Board requested to add an item on the agenda. **Mr. John Long, SWA Chairman, moved to amend the agenda to include Item VI Reconsideration of a procurement issue for the SWA Board, seconded by Mr. Jones. The motion passed unanimously.** Ms. Gilland stated that when the Roundtable discussion was concluded, a break would be called to allow the Council Members to leave and the SWA Board would stay to complete their business. **There was no motion to approve the agenda as amended but a vote was taken that passed unanimously.**

County Council Resolution R-79-10 approving the county's allocation of the volume caps for recovery zone economic development bonds and the recovery zone facility bonds. **Mr. Worley moved to approve, seconded by Mr. Frazier.** Ms. Frannie Heizer, McNair Law Firm, gave an explanation of the two bonding programs that had been made available to local governments. **The motion passed unanimously.**

Solid Waste Authority:

A. Introduction of SWA Board. Mr. Knight thanked everyone for their attendance. He distributed a packet that contained data on Board membership, financial data, and goals. (Packet documents attached.) Pages 10-12 contained information on Board composition and committee structure.

B. Financial Update. Mr. Knight stated Page 13 depicted revenues and expenses since 2005. Year 2010 was an unaudited statement and some items could change when the external audit was completed. The SWA finished this year with over \$1 million in the black. He praised the staff for tight spending and holding positions open to make it work. Ms. Gilland stated that last year the SWA was \$2.2 million in the red and to go from that to \$1 million in the black was outstanding. Mr. Knight said staff worked hard this year but last year the recycle sales were down and the bottom fell out with the recycles. Page 14 would give them an indication of the revenues versus expenses. The orange color was the recyclable sales which were down last year and the revenues did not keep up to where they thought they should have been. The recycles were very important to them and that was the reason they were putting so much effort this year on recyclables.

Mr. Knight said the next chart, Estimated Landfill Liabilities, was important. This told them that twenty to thirty years down the road, they would need \$81 million for closure and post closure on the landfills. When they closed them out, they didn't go away. They had 30 years after closure to tend to them. This money was money that would be spent in the future. They still had to collect \$62 million and they collected that on every truck that crossed the gate. That was the way the money was collected and saved. They do not touch that money.

Ms. Gilland said under the item "Closure Care Cost", they had \$7.7 million and they still needed \$32.9 million. Mr. Knight said the green column was what they had in the bank which was \$18.5 million. Ms. Gilland said \$62.9 million was what they still had to collect to get to the \$81 million. Mr. Knight said that was correct.

Mr. J. Prince asked what percentage of the tipping fee went to the future. Mr. Knight said about 7% of each ton. Every pound that crossed paid their part of the future closure on the site that they were helping to fill up today.

Mr. P. Prince said if they failed (inaudible) it could be detrimental to Horry County if SWA didn't have money to take care of things. Mr. Knight said they didn't care where the money came from, but when the time came, it had to be collected and maintained and that was what the SWA had planned.

Mr. J. Prince asked if they had to carry insurance. Mr. Knight said they had to have some for the state and had to guarantee the money. Ms. Donna Crump, SWA Finance, said they had a report of financial assurance and a governmental test. Mr. Knight said they signed the document that they were going to tend to the programs in the future, and they did that every year. Ms. Gilland said the SWA decided long ago to start collecting little by little so it wouldn't be stress on the Authority or County government because if it got to the time that those millions were needed and it wasn't in the bank, they would have to suddenly come up with that.

Mr. Knight said Page 16 showed the growth, ups and downs, of municipal solid waste. Page 17 was a mix construction or C&D. They could see when the bottom fell out. Yard waste was steadily increasing. Page 19 gave breakdowns on the different types of recyclables.

Mr. P. Prince asked on the mixed construction, were they still separating all they could. Mr. Knight said yes, and they would talk about that later in the goals portion.

Mr. J. Prince asked if they were going to talk about the capacity and the MRF.

C. 2011 Goals. Mr. Knight said the next point was the goals for 2011 that started on Page 20. They had 89 goals that the SWA Board had approved. On Page 20, one goal that was listed was "Develop Glass Crushing Program". It was costing them a great deal of money to take glass to Raleigh to get rid of it. With what they were spending in trucking to Raleigh, they could buy a piece of equipment to crush it and a possibility of selling it for sand or use it on their road network. Ms. Gilland said it was about \$80,000. Mr. Knight said yes, and if they used it on their road, they didn't get the credit from DHEC for recycling. They could take it to Raleigh, and he didn't know what they did with it up there, but if they resold it as sand to a glass company, they would get the credit. The credits were just like a gold star in grade school and was a feel-good thing. They didn't get any additional money or anything from it but they were going to get all the gold stars that they could.

The next goal was on Page 21, "Develop Pilot Program for Neighborhood Recycling Program". They were looking at developing a curbside recycling pilot program this year some place on Hwy. 90. In six months, they would get a subdivision to offer curbside service free for six months, and would benchmark based on

the national organization benchmark on curbside. They would see where they were hitting on those benchmarks on a national level. All of the recycling was to push stuff to the MRF. It was recycling money that was helping them with their budget. They would know within a six month period after they started it. They would have reports on how many times the customers put it out, how much they collected, the poundage, what they collected and then would take those tonnage and see exactly where they were and may have to charge some to break even. The private side was charging, the national average was something like \$2.50 or \$3.00 per month, for curbside recycling. A lot of people in the County went to the recycling centers. Some of this stuff came out of the FIN process which encouraged recycling and they couldn't quite understand if they took it out of the stream they don't cross the scales with it so why should they push and not make the money at the scale house. They wouldn't have built a \$12 million MRF if, in fact they didn't believe in recycling. This was another point to show they really did push it.

Page 27 was the piggyback expansion that hopefully this year would be permitted and that would put them to probably 2035 with a permitted landfill. This ability to have landfill space helped them with everyone that knocked on the door with a magic box on what they could do with the garbage to make it go away. They believed that between now and ten to fifteen years, there would be a system out there that would convert the garbage to methane or gas or energy or something. They had a meeting in a couple of weeks with Santee Cooper to talk about some of those possibilities. Hopefully, the piggyback would be permitted this year. Mr. Bessant said it was the draft permit. Mr. Knight said the draft permit was when they have the public meetings.

Goal Item 22 was C&D recycling. They budgeted this year for some C&D recycling equipment. Staff would be traveling to several locations to look at equipment and how it would work here.

Page 30 was the convenience centers. Fund 6 contract would be bid this year and that always brought a lot of questions and a lot of excitement.

The next goal, on Page 32, was the management plan. This process was very important because this was SWA's plan, SWA's road map, and would include community input. DHEC would look at it. The Management Plan Committee would consist of 4 appointments by County Council, 4 appointments by the League of Cities, and 4 appointments from the SWA Board.

Ms. Gilland asked if they had long range plans for the 1187 acres. Mr. Knight said the long range plan was to have a property wetlands delineated again this year. The old delineation ran out and they were getting ready to bid that. It would cost \$600,000 or \$700,000 to delineate the wetlands again.

Mr. J. Prince asked Mr. Knight if he could give them some kind of idea of the magic black boxes he had seen so far. Mr. Knight said staff went to Wilkesboro to see one and it was everything from gasification to waste energy. The Board set up a committee to take a look at it. Mr. J. Prince asked about an incinerator. Mr. Knight said the incinerator was coming back and waste energy was coming back. That was what the big fight around Rock Hill was about this past year. Mr. J. Prince said it would be interesting to watch that technology. Mr. Knight said they thought there would be a technology that everyone could agree to. Some environmentalists didn't like them and some would rather have it than others and hopefully within the next few years, they would probably do what a lot of the larger cities and counties did, hire a firm to come in and take the proposals of what was out there, then take their waste stream and what it generated and what type waste stream they had and what kind of BTU's was in the waste and try to recommend what was the best for this area. It cost money but it was a professional group that did this all the time. They didn't have to decide tomorrow and that was the luxury they had that a lot of people didn't. A lot of people were up against the wall and the first thing that came along they had to grab on it and hoped and prayed that it worked. Mr. J. Prince said that was if everything went well with the FIN process.

Ms. Gilland said there were folks all around the world trying to devise a way to get rid of garbage because garbage landfills were a problem everywhere. There were a lot of folks in Europe studying it. There was a program at Clemson, she had been up there and watched while they put a load of garbage in a machine and what came out looked like thick chicken soup, but they could touch it and it wasn't poisonous and couldn't drink it. It used things that weren't dangerous. The process was not using anything that was unusual. That was only one of a number of universities working on it. Unless they had untimely catastrophic ends to their lives, they were going to all be alive when they came up with something that really reduced the garbage in amazing ways that they couldn't even imagine. Mr. Knight said he knew one thing about that one at Clemson, it ate money too.

D. Flow Control. Mr. Weaver said there were two aspects that they were going to talk about. Emma Ruth Brittain would talk about the United States Supreme Court impact and what it had done for Horry County, what they had done legislatively, and then when she finished, he would talk a bit about the effort that was underway to defeat flow control regardless of what the United States Supreme Court had said, what had taken place in Columbia trying to defeat what they had done here in Horry County. Mr. Knight said the flow control information in the book was on Pages 34-36.

Ms. Brittain said it wasn't that long ago when she appeared before Council in a meeting to discuss the flow control. She would try not to repeat too much of what she said before. On April 30, 2007, the US Supreme Court handed down what she thought was one of the most significant cases that they had in a long time in terms of local government and local government control especially as it related to the handling of solid waste. In this case, Chief Justice Roberts upheld ordinances that had been passed by two counties in New York whereby these counties' concept of flow control and put in place ordinances that mandated that all trash generated within those two counties go to a publically owned mandated site or sites. This was a foreign concept, and the thought before had been there was a right to get free enterprise noncompetitive but had competitive practices for trash. The Supreme Court said, no, that handling of trash was an important local government function. They were looking at the public health and welfare and it was (inaudible) and if they looked at the facts that led to the lawsuit, it really made a good book or good movie because they had a situation where they had these counties that were faced with a disastrous situation and getting to the flow control ordinance was neither pretty nor was it pleasant. They had a situation where they had a contaminated landfill that resulted in an environmental lawsuit with over 600 defendants. Over 600 defendants were local businesses within the counties. There were numerous municipalities sued and numerous school districts sued. They were all put in the pot and sued for environmental contamination because their waste had been hauled to a landfill that had violated the law and had not kept everything in compliance with the regulations and standards that regulated disposable waste. There were also allegations of price fixing among private haulers, collusion and organized crime. It was a fascinating factual backdrop to this lawsuit. The counties said enough was enough and so they joined together and had legislation passed. They enacted an ordinance for flow control. If they looked at the US Supreme Court record on this case, they would see that local government and associations all over this country petitioned to be friends of the court because they were supporting flow control. She said there was brief after brief. There were some that were very technical written by scientists and briefs written by academic scholars that might put them to sleep, and briefs that make you laugh out loud because the points were so poignant and really good. It made them feel good about their court that they looked at these issues and came out with a very good decision for local government that, yes, they could control what was good for the local citizens through regulating the regulation rate of flow of trash into the landfills.

Ms. Brittain said that was a historical note. Approximately two years later, they had the Horry County ordinance that they passed establishing flow control in Horry County. They were out front in the state, as many of the Solid Waste Authority practices were. They could be proud of their MRF, and could be proud of their landfill, and proud of the funds that were allocated for proper closure of that landfill, and could be proud of their recycling programs and their household hazardous waste program. All these were programs

that the US Supreme Court took note of in New York that the counties were doing in New York and the court said these were lawful goals and were things they should be doing and should have a revenue stream to support those goals, and that by having the mandated flow control and the tipping fee to support education about recycling, to support (inaudible) methane gas and carbon credits, and were all very good goals and were goals that were good for the health and welfare of the people, and they were going to uphold this flow control ordinance. So Horry County had a flow control ordinance that was cutting edge and keeping with what the US Supreme Court had recognized as being very appropriate and a proper exercise of their authority.

Ms. Brittain said the ordinance was Horry County Ordinance 02-09. She didn't know if any of them had looked at it lately but the concept was very simple. Basically, all waste generated in Horry County, once it hit the curb, was the property of Horry County and went to the designated landfill. They, as County Council, designated the SWA entity that they delegated certain authority to in terms of managing waste in Horry County. They designated the SWA's facilities as the place where trash generated in Horry County needs to go. They did not tell haulers they couldn't haul and didn't tell citizens they couldn't directly haul. The right to a hauler to haul was preserved and were required to get a license and a benefit to them as a result of that to those of them on County Council was that there were haulers hauling with no County licenses, so when they came to get the SWA license, the first thing they were asked was they had to fill out the form and needed to know about their County license. They had to leave and go to the County license to properly do business in the County and then get their hauling license with the SWA, so that was an added benefit from the ordinance. She said haulers were still free to haul, or any contractor who wanted to direct haul, as long as they complied with the rules and regulations, they could do their hauling. The ordinance did not inhibit that in any way. Enforcement was by the Horry County Code Enforcement officers. General recycling by citizens was greatly encouraged and was not mandated here and in some places it was. C&D recycling was encouraged and they had incentive fees. She said the Supreme Court said an incentive fee was a great thing. That was the lawful goal and they had that as one of their goals. She said basically that was an overview of the history of flow control. That was an overview of the ordinance and if they had any questions later she would be glad to answer those. She said Mr. Weaver would like to speak to them about efforts to undermine all this great work they had done in this area.

Mr. Barnard asked if he could interrupt for a moment. He would respectively ask the board to do two things. He believed in flow control and supported flow control primarily because he believed it was important to the tax payers in Horry County that they control flow, otherwise they were liable for it. The two things he asked them to look at, and he realized that some of the folks in the recycling business were not the easiest people to work with, but nonetheless, he felt as a Councilman when they went through this, they looked at an incentive overview plan that he was personally disappointed in when it was cut. He asked the board to go back and look to see if perhaps they could reestablish a larger incentive. He said that was important, and while he was certainly not part of the flow control scheme, it didn't affect his vote. He personally was disappointed when that incentive decreased and asked that they go back and look at it. The other thing was he believed they had a 1 1/2% pay raise this year, and he understood how important it was, but he thought everybody that worked in the County, both in the SWA and in County government, were all on the same team and was somewhat difficult as they struggled in the County trying to keep people from having their taxes increased and were not able to support their own employees with any type of pay raise that even a small one at the SWA was difficult to explain, in all honesty, to all governmental employees. He asked that they go back and relook at that. Those were the two. He said out of everything they were doing, if that was the only comment he had, he thought they were doing an extraordinary job and was very much for authorities and sometimes he was in the minority of Council when it came to authorities. He said the last 20 years shown it was put together wisely and they needed to continue, and he respectively asked that they go back and look at those and he would very much appreciate it.

Mr. Weaver said during the first half of 2009 as they were going through the flow control ordinance, he made mention on a number of occasions that he thought it was the most important financial decision that this Council would have to make, and his opinion on that had not changed. Other than talking about that again, he asked them at their convenience to talk to any of the board members or talk to the financial people with the SWA to determine whether that was an accurate statement. He did know while they were debating that issue before the passage, each one of them was lobbied, threatened, was going to be sued and could just count on it and didn't know where it was coming from but thought it would happen. If they buckled every time they were threatened to be sued, they couldn't ever have a meeting. They were sued by Sandlands C&D on Hwy. 378 by Mr. William Clyburn. Mr. Abercrombie was present (at the workshop). He is the manager of Sandlands. He was not particularly mad at Mr. Clyburn or Mr. Abercrombie for bringing that lawsuit. The passage of flow control had a direct impact on their economic income. That didn't offend him and he didn't take it as doing anything underhanded and had been very good at what they had done. Sandlands had brought a lawsuit to the federal court in Florence claiming that even though the US Supreme Court said the County could do what they did Sandlands' position was that what the County was doing in passing flow control contradicted what the state law said they could do. That was considered briefly by the US District Court in Florence and then the case was transferred to the SC Supreme Court and the issue that the court there had been asked to decide, they had not yet said if they were going to hear the case or not, but assuming that they did, the issue was going to be, does the flow control ordinance passed by Horry County contradict what was permitted by SC state law, yes or no. If it did, the County couldn't do it even though the Supreme Court said they could do it as long as it didn't conflict. The County didn't think it did and Sandlands says they thought it did. In conjunction with that situation, when it was in the federal court, the County obtained an affidavit from Art Brasswell, which stated in part that he was employed by the SC Department of Health and Environmental Control for 30 years. He became the manager of the regulation development planning and compliance section of DHEC. As manager, he supervised the development of all the solid waste management regulations required by the Act. Mr. Weaver said he was the guy when he worked at DHEC that wrote the book. The conclusion of this affidavit- it was filed at the Clerk of Court back in August of 2009, said there was nothing in the flow control ordinance, Horry County's, that would interfere with DHEC's permitting process. The ordinance did not address the permitting of landfills and did not attempt to restrict or affect the permitting of solid waste management facilities by DHEC. In other words, his opinion, as the guy who wrote the book, was that what they had and what the state law said was not in conflict. That was presented to the court and that was going to be the issue, if they accepted the case that would be decided by the SC Supreme Court at some time. This had not been a one prong approach. He was not offended, nor surprised by this issue.

Mr. Weaver said Mr. Clyburn, William Clyburn who was a Kershaw County resident, was successful in getting Senator Vince Sheheen, who was the Democratic candidate for Governor now, to introduce into the Senate a bill, perhaps there were some contributions made, it didn't matter one way or the other, he knew they knew one another, but in any event he said let him read to them what the law said and tell them about the change. The law said "the governing body of the County was authorized to enact such ordinances as may be necessary to carry out its responsibilities under this chapter provided however that the governing body of the county may not enact an ordinance inconsistent with the state's solid waste management act." That was exactly what the US Supreme Court said and was exactly what Art Brasswell said- so what was the big issue. He said there had been introduced in the House and in the Senate in Columbia a modification to that law. The bill that modified it had this language: "An ordinance that restricts or prohibits disposal of waste at a permitted solid waste management facility located outside of the County's boundaries or impedes the development and implementation of a public or private recycling program is considered inconsistent with the provisions of this chapter." In other words, if the County in the enactment of their flow control in any way impedes the Express Disposal, Tim Lee, or Chris Burroughs or any of the local C&D carriers from taking their material across the County line on Hwy. 378 Sandlands, it was against the law for the County to restrict them. That started in the last session and while it didn't exactly catch them off guard, he would tell them in advance Mr. Clyburn did a great job of getting the ball rolling, and he got a little taste of that when he went

in April before the Senate Medical Affairs Subcommittee and was asked to come up there where they were going to hear this. He said in his opinion the deal had been done before he left Conway. He and Senator Danny Burton from Greenville exchanged differing views and before it was all over he was apologizing and the vote was 4-1 in favor of Mr. Clyburn's bill. They had Wayne Bean and Billy Witherspoon assisting them in lobbying efforts and Senator Knox and Senator Williams from Marion County and a few others, Yancey McGill signed on to want to speak on the issue had it come before the Senate for debate, and when they said they wanted to speak on it, that took it to the contested calendar and because it was so late in the session, it did not make it. He said to be assured that it would be back next January and would be pre-filed and the same efforts would be made. He didn't suggest to them that he was shocked or surprised that they were going to give it another try and they would perhaps be a bit more prepared. He believed that this was nothing more than special legislation for one business located three miles beyond the Horry County line in Marion County. That was what the bill was. He said Mr. Clyburn had done a great job in convincing them otherwise. They would make a concerted effort to give them the other side of the story and would see where that went, but if this passed, flow control in Horry County would be dead. He would just tell them that was the hardball reality of that one sentence that was being added to 27 books of laws in the state of South Carolina.

Mr. Worley asked where they were in trying to come up with and mediate some type of solution that everybody could live with. He asked who was in charge of that. Mr. Weaver said he would say that Mr. Clyburn was in charge of that. Mr. Worley said then they were in trouble. Mr. Weaver stated that Emma Ruth, Stan Smith, and Vicky Vaught were all on their team and were lawyers. He didn't think...perhaps they had been contacted by him or by Mr. Abercrombie, he didn't know, he didn't know if there was a solution or not, but he knew that it was his responsibility as an attorney and also as the Administrator of the County to consider every possibility that may resolve a conflict. He said he never avoided doing that, he would not do it and sell out the County. As far as he knew, there had never been any effort. They had gone to court and to the Legislature but had not gone to 2nd Avenue in Conway.

Mr. Worley asked if he thought it was a good idea or a bad idea to sit down with them and see if there was some happy medium there. The last thing they needed in Horry County was for flow control to go away completely. He thought it would be bad for the people, but at the same time, the businessmen out there, and recycling certainly deserved some funding also, he asked what did he think in looking at their numbers from one of the waste haulers side and kind of jump in their shoes for a minute and their business plan, it cost them so much money to tip at Southland, correct...Mr. Weaver said about \$20 a ton he was told. Mr. Worley said it cost so much money to dump it and cost so much money to haul it away from the beach because that was where the majority of the waste was obviously generated, and looking at some type funding for their recycling program and take all the costs into consideration and see if they could come up with a number, and maybe it wasn't \$5, maybe \$10, \$15 or whatever it was, but to try to mediate and work through this without having to go in the courtroom and spend hundreds and hundreds of thousands of dollars in legal fees and still not have something that everybody could live with.

Mr. Weaver said the independent haulers, the independent C&D haulers- Mr. Lee, Mr. Burroughs, and other competing companies, wanted to get rid of their stuff the cheapest way possible and he understood that, and was in some sense what they were talking about, but Express Disposal was also a C&D carrier and was owned by Mr. Clyburn, too, so Mr. Clyburn was picking up materials in Horry County in violation of the flow control ordinance and was taking it to his dump in Marion County. There was really no incentive for them to, they dump it for free over there, maybe not for free but there was no price that they could ever offer to Express Disposal that would convince them it was financially advantageous to bring their C&D materials to Hwy. 90 as opposed to taking it down Hwy. 378. He said Mr. Abercrombie was present and he was sure he would talk to Mr. Clyburn. Mr. Weaver said his door was open for any possible settlement negotiations they would like to talk about, but rather than him trying to find that needle in a haystack, that if they had a proposal, he had the numbers people, the legal people, and a complete staff to analyze that and make a recommendation to the SWA and Horry County Council.

Mr. Schwartzkopf said like Harold said it was better to negotiate than to litigate...(inaudible) but one of his concerns was this was (inaudible) Washington, DC that he had had the opportunity to be aware of the case in the Supreme Court, and he was always under the impression that the Supreme Court made the decision and that was it. Mr. Weaver said you would think so. Mr. Schwartzkopf said he would think so. He asked where did the state of South Carolina, Horry County, or anybody else say they supersede the Supreme Court? He thought the Supreme Court was in charge. He said apparently his legal training was decades gone by and was in his faulty memory bank. Mr. Weaver said the difference that brought it to court in South Carolina is they were claiming a factual difference. They were claiming that the law that existed in the state law and the law that existed in Horry County conflict and therefore that made irrelevant the US Supreme Court's opinion.

Mr. Foxworth said they had two separate legal questions there. The first legal question, the factual difference, was the result of the suit and the suit was the result of, they had Brasswell's statement and the US Supreme Court in agreement as long as they didn't contradict it that they could do what they did. If Mr. Clyburn and his attorneys were adamantly convinced of that, there would be no reason for the legislation. The legislation wouldn't come about, and he wasn't sure he agreed with what he said if that passed that flow control in Horry County because if they instituted, and he predicted he voted for flow control and supported it simply because he felt the Supreme Court had opened a window where they could create a revenue stream, a potential revenue stream for the future, but also predicted at the time that the same General Assembly would move very quickly to shut that and that was exactly what this legislation was. If they were on the books already and then they moved to change the legislation much like the real estate transfer fee and the impact fee, could they not keep theirs if the Supreme Court ruled that there was not a factual difference. Mr. Weaver said that certainly was a legal consideration that had been considered. Mr. Foxworth said the factual difference he described between whether or not the two were in disagreement, was the state Supreme Court final authorize on it that- could that be appealed to a federal court system. Mr. Weaver said this was a question that had been certified to the State Supreme Court asking if the two were in conflict, asking if their flow control and the state law without this change were in conflict. He said they were going to answer that yes or no. He didn't know what Sandlands was going to be able to say showed the difference because he read to them the present law, so suppose Chief Justice Toal and three of the five say there was no conflict, then if this passed by legislative act, if they had a flow control that kept them from taking it down Hwy. 378, there was a conflict. It was basically two avenues. They could win one, win both, or lose all of it.

Mr. Loftus said if they passed something in good faith under existing state statute and the Supreme Court said it complied with what existed at that time, how could the state make legislation retroactively to them- there were things all over the state even though the law had changed. Mr. Weaver said it wouldn't be retroactive. He said what they would then do was bring a new lawsuit saying it may have been okay between 09 and 11 but now it was in conflict. It wouldn't be retroactive, yes it happens. The state passed laws all the time that supplement and override...Mr. Loftus said he understood, what was in affect then didn't it stay...Mr. J. Prince said if they no longer had flow control and didn't exist, what would that mean. Mr. Weaver said in long term consequences from a practical standpoint it meant that Sandlands could take all C&D at a discounted rate and the revenue was lost by this body and all the recycling and the school issues they didn't have the money to support it. What it also meant was, and that was not where they were today, but it also meant that potentially down the road the large national haulers, Waste Management, Waste Industries, they then if they could get a way whether it be through a transfer station or landfill nearby, they could take all of the waste, garbage from the beaches, the County, and haul it to their facility and Danny Knight and company were broke and out of business.

Mr. Worley said he didn't think that was something they really wanted to do. He said the whole idea behind the flow control was to promote recycling and what he saw was from the guys in the recycling business should be cut some kind of break and have some kind of plan to help subsidize. His point was how do they get to a happy medium so they were not adversaries in this. If they could do that and get all them together rather than fighting they could have one big love fest and make it work. Mr. Weaver said that board was

sitting to his left and was who the negotiations and discussions were with- the private haulers, private C&D and the board of the SWA. Mr. Worley said they had to make some money too, but at the same time they were recycling and was something that they as government wouldn't have to do and be a part and was something he would like to see. Mr. Weaver said he was sure they heard him.

Mr. Foxworth asked if they foresaw after the piggyback was permitted that in order to preserve that very expensive air space they just paid for that they would permit C&D to either be carried elsewhere and out of the County. Mr. Knight said yes, they thought they would do everything they could to start C&D recycling. He said people could take recycling to the MRF today free. They take it and dump it free, there was no charge. There was money now in recycles so they took it to where they got the best dollar but when the bottom falls out they were in line. He said what Mr. Weaver was saying was it took so much to run the facility, and if they lost the tonnage, they were going to reduce the operation cost and would have to reduce the expenses and programs, and he thought all of them had said they wanted to maintain the school programs and recycling programs and stuff was not free. It was about \$7 a ton to make that work. If they were to take all those things out, the 911 money, the recycling, the educational, all of the things, the do-good things they would be down below Sandlands but they didn't want to do away with those programs.

Mr. Foxworth said it also created a Catch 22. They could go too low to encourage business particularly implementation and fill up very expensive airspace and capacity so there was an incentive from his point of view to not fill that area up and do something else with it. Mr. Knight said it was a fine line balancing act and that was what they had on curbside recycling. They had to see if they could make money by the materials that were coming to the MRF at a little bit of a fee and they just had to weigh it out. It changed daily with the price of the commodity. In the last ten years they had changed the tipping fee one time and it went down. Mr. Bessant said in 1993 it was \$30 a ton for MSW and C&D and then in 2000-2001 timeframe it went down to \$29. After the RW Beck Study, the board recommended that it go to \$27 a ton for garbage and \$24 a ton for C&D, and the County chose to take \$2.25 per ton and brought it back up to \$29 a ton for garbage and \$26.50 for C&D. Ms. Gilland said which was still inexpensive. Mr. J. Prince asked if they had compared it...Mr. Bessant said he had DHEC to do a list of landfill projects this year. The average price that they gave for MSW was \$33. Mr. Weaver asked if these were all public landfills. Mr. Bessant said the ones that had a Y beside them were county owned and the others were private. One of the lowest was Twin Chimley, which was a Greenville County landfill, and did nothing but disposal only. They had no program, nothing. Mr. Foxworth asked what was special waste. Mr. Bessant said special waste was any kind of waste that had special handling, asbestos...Ms. Gilland said hazardous. Mr. Bessant said anything like contaminated soil and that type stuff. Ms. Gilland said batteries and aerosol and those type things.

Mr. Worley said he was looking at it from landfill to landfill, the space itself, it seemed to him it would cost just as much for that landfill to be over there if they were good stewards of the environment as it would be for Danny and his team over here, so what he was saying was whatever that cost was for that, if one of the haulers obviously had no interest in it onsite or on landfill itself would cost them so much to dump the truck in a tipping fee and ever what that cost was of hauling it from here to the distance on over there, when they took that along with the recycling cost itself it just seemed to him that they could come up with a number that the majority of these people out there and businesses could live with and they could live with. Mr. Weaver said considering the incentive now that was about \$5.00, if they took off the \$5.00, how much were they paying when they crossed the scale. Mr. Weaver said \$21.50. If they were charging \$20 out there, and he didn't know that but maybe Mr. Abercrombie would answer, the question was \$1.50 to go down Hwy. 378 about twelve miles with a truck that got about 5 or 6 miles to the gallon, he would just kind of leave that to them for their figuring business standpoint as to whether that really was the issue.

Mr. Worley said maybe they could set up some kind of committee of the SWA and let some of the Council members be involved in it too, and sit down with the legal minds to see if there was not some way of working through this because he certainly wasn't mad at any of the waste haulers and thought they were

doing a great job out there, and certainly didn't want to run them out of business, but yet at the same time, they wanted to make sure the SWA stayed in business also.

Mr. Knight said they had toyed with this and had thought about it and they were trying to protect the interest of the landfill, and trying to protect the programs that it costs to run these extra programs other than in Greenville. They put it in a hole and covered it up. They didn't do hazardous waste or nothing. They could get competitive with Sandlands if they didn't do anything on that side, but if they could come up with some way that they would pay their fair share of the programs...the people that were generating the trash...they were just hauling it...those people that generated it...if they could pay for the education and recycling program. He did not think they were going to step up and pay them seven dollars on everything that went down there because it was getting their solitude out of it.

Mr. Worley asked if anybody had tried to mediate the issue with them. Mr. Knight said no, but if they would look at pages 38-39, there were two pages of meeting they had through the whole process. He thought the mediation was for the recycling incentive program they set up and started in June 2009 to try to mediate the programs they had heard that they had six months of this and six months of problems, and they and the Board said to work out something that would help the people through the crunch period they found themselves in.

Mr. J. Prince said it may be two different issues a little bit but he was talking about a lawsuit, and a discount as two completely different things. Mr. Knight said the incentive program came out of flow control. Mr. Worley said he was saying a long term solution. Mr. J. Prince said they should pursue some sort of compromise with the flow control potential...what was a suit for flow control...that did not have anything to do with the incentive program. Mr. Knight said they were getting some complaints from some of the C&D haulers about the flow control not being enforced and their prices were being cut. They brought it there and the other ones could take it someplace else cheaper. Mr. J. Prince said and they were doing it. Mr. Knight said yes, they were doing it. Mr. J. Prince said that brought up the question of what was happening with that enforcement. Mr. Schwartzkopf asked if they were getting tickets.

Mr. Weaver said that eighteen tickets had been written. Mr. Clyburn had called on the organization and the Flow Control Ordinance said that if they violated it four times, they would lose their Horry County Business License. In South Carolina they could request a jury trial on anything. They could request a jury trial on a five dollar parking ticket if they wanted to. The attorney for Express Disposal requested a jury trial on every one of those eighteen tickets. What was written last November and December had been administratively delayed because of the jury trial. The first of those eighteen jury trials would be held next Wednesday morning in Myrtle Beach. Mr. J. Prince said in the meantime they just continue to write citations. Mr. Weaver said no. If he could not win four out of eighteen...if he wrote a thousand it would not make a difference. Mr. J. Prince said it just made for an interesting scenario...they had eighteen citations on a company that they no longer monitored or wrote citations on...potentially they were monitoring others that did not have citations yet. Mr. Weaver said he did not know that. Mr. J. Prince said it was kind of interesting. Mr. Knight said he believed they wrote one last week. Someone tore something down in Little River and took it from the county to North Carolina...concrete and stuff.

Mr. Long, SWA Chairman, said they gave that same company approximately \$90,000 last year in tipping fee reductions. They talked about working out and helping them. They gave two companies \$186,000 last year in tipping fee reductions straight out of their pockets. In return they gave them citations day after day. They violated their rules so if they wanted to sit down and mediate...how were they going to mediate with somebody like that?

Mr. Worley said he understood where he was coming from. He guessed one of the things he did years ago, and it was sort of hard for him to do, he was sitting there representing the people of Horry County, not necessarily Horry County Council, and the waste haulers were a part of that group. In all fairness, however

those tickets ended up, whether they ended up winning or losing, it was still an issue at the end of the day for everybody. As they moved forward if they could maybe not let it get to a personal level, keep it on a professional level to make sure that at the end of the day if they disagreed they were not disagreeable. He learned that the hard way. Those guys were out there trying to make a living in that business. They deserved their fair shake. That was all he was telling the Councilmen there that day was give them their fair shake...whatever that was. To sit there and tell them what that was...he did not...but he did know they could sit down as good God fearing people and talk and work out something rather than say it was their way or the highway. They understood what the ordinance was...he thought they passed it unanimously...Mr. J. Prince said he voted no. Ms. Gilland said it was 11-1. He was just hoping at the end of the day they could sit down and do that and come up with something they could live with and move on down the road without having a bunch of Senators in Columbia getting into Horry County's business. Mr. Long said it was two different issues. Mr. Worley said he understood that but the bottom line was they were not happy with flow control. That was the bottom line. They were not happy with the incentive program. They needed to have a good clearing of the air and say...guys...this is where they were going to and that was the end of it. If they needed to move on into court then they would move on into court. It was a friendly thing not necessarily a personal thing. What bothered him was it had gotten to a point where it was personal conflicts rather than the people verses business.

Mr. Long respectfully disagreed with him that it was personal. He had talked to one of the two haulers in regards to it and they were friends and it was not adversary. He talked about the good of Horry County and he agreed with him and that was what he did as a board member was look for the good of Horry County. They were talking about two businesses that the Solid Waste Authority gave \$186,000 to last year. How could he look other business owners and other citizens of Horry County in the face and say they gave two companies \$186,000 last year and they were going to give them more. That was a hard thing to sell. He did not want to see anybody go out of business but at the same time there was a breaking point financially, and how much money was going to give somebody an incentive to recycle to keep materials out of the landfill to save airspace and the invisible pyramid verses the actual future dollar amount that the space was worth. If he paid them \$5 a ton incentive that day, how much did that save him in the future. If they kept spending \$186,000 a year in incentives to keep materials out of the landfill, there came a point in time where financially it was not worth it. They were spending way more money in the incentive program than the benefits they got out of a landfill.

Mr. Worley said he understood exactly what he was saying. He was protecting the landfill and that was fine and well. The fact remained that they wanted to promote recycling. That was what it was all about. It was about recycling, not who had the biggest landfill. They did not want the biggest landfill in the state. They wanted the smallest landfill in the state and they got that through recycling. It was imperative that Council, as public community leaders, promote and push that. It cost money to do that. All they were saying to those guys were if they stepped up to the table and did their part and those two companies...he did not even know who they were...but he did know that it was important to move in the recycling direction. If those two companies were out there doing the work and separating the C&D, pulling the nails and doing whatever they did, and were recycling, \$186,000 was nothing. If he said only two companies...if the other companies wanted to pull the nails let them do it. They would get part of that \$186,000 and they should give it to them and give them a break for doing that. That was all he was saying. Mr. Long said he agreed and that was what they did.

Mr. Frazier said they could sit there for ten hours but Mr. Weaver hit the nail on the head when he said lets form a Board. They could call Mr. Weaver and he could lead them to Mr. Knight and the rest of the Board and get it settled. They could sit and talk about it right on and on. Ms. Gilland was not sure that would make the lawsuit go away and she was not sure that it would make the legislative push go away.

Mr. Weaver said there were two C&D teams. One was Chris Burroughs and Tim Lee and the others were similarly situated. They want to get rid of their stuff wherever they can get rid of it the cheapest way possible. No question. With Mr. Clyburn at Express Disposal and Sandlands, there was no incentive. They owned that trash dump. They could not give them enough incentives to make them come to Hwy 90. Those were the litigators and these were the legislators. Tim Lee and Chris Burroughs and all those...if they could cut a deal where they could make money...they would be out there that day...but there was no incentive for the other.

Ms. Gilland said on that topic if they really wanted to focus on recycling, and one of the largest amounts of material filling up the landfill was cardboard...she would ask Council to entertain the prospect of making cardboard mandatory. They could do it for commercial businesses only, or for everybody. She knew it was not a new idea but she would like to ask the Solid Waste Board if they would recommend to Council an ordinance that would have to do with mandatory cardboard recycling and they could determine if they wanted to do just businesses or certain types and sizes of businesses or do everyone and then send it on to Council.

Mr. Foxworth said they took that up at the I&R Committee several months ago when the Solid Waste came before them. One of the sticking points was the cardboard recycling containers. Under the county's LDR's, it fell under the same guidelines as a dumpster. A lot of businesses that were willing to participate and would, but they were not going to go to the added expense of building the pad and shielding for a clean dumpster. The county needed to go back and look at its LDR's in that regard before they start a mandatory recycling, otherwise they were going to force expense onto commercial entities perhaps unwillingly. Ms. Gilland asked if they had started looking back at it and if they could do that. Mr. Schwartzkopf said sure they could look back at it. Ms. Gilland said they needed to see what could be changed so they could do that. The commodity the landfill had was space. Whatever they could do to keep that space unfilled as long as possible was a positive thing for everyone in the county.

Mr. Foxworth said Ordinance 60-90 actually created the Authority and it was passed in 1990. Providing for the establishment of an Horry County Solid Waste Authority. Under Section 1 paragraph 1, said if there was a deficiency in the board over the years in addition to his setup, he was like Mr. Barnard and was not that much in favor of authorities...the number one charge of the authority was to develop an acceptable alternative method to solid waste disposal and reduce the tonnage of solid waste disposal in a sanitary landfill due to the county's high water table and other geological characteristics that make utilization and expansion of the existing landfill and development of new landfills especially expensive and difficult. That was the number one charge and he would really like to see the board re-double their efforts and look at all those black boxes, and while all of them may not be 100%, if they could start even saving part of that expensive landfill or airspace, it would be a gain down the road.

Ms. Gilland said that everything out there was expensive. She did not want to be the first to try out anybody's new toy or new box that they claimed would make something go away. She would rather hang back and before they spent millions let somebody else test it out at their landfill and be second. Mr. Foxworth said as Mr. Knight had said they were moving back toward incineration which was nothing new. That predated landfills to some degree. They were getting new and improved ways to do that. That may be where they needed to go...that or the decomposition thing. They needed to start looking somewhere because even if piggyback was permitted, they had to innovate there. Ms. Gilland said that was why they had the subcommittee to study it.

Mr. Long said the subcommittee looked at other alternatives. They had a presentation on the incinerator a couple months ago, and at the time, it was not economically feasible. Mr. Jones said it was still the most expensive way even with the new technology and everything there...it worked and it worked much better than it did but it was still by far the most expensive way. They got about \$60 per ton. Mr. Foxworth said even

if they closed the landfill tomorrow it was going to be there and was going to continue creating methane gas. Mr. Knight thought the board said that a lot of the stuff in there was methane gas and was the first in the state to do that...they just put in more wells dealing with Santee Cooper. Very few people did household hazardous waste. They sell compost for \$10 a ton everyday to gardeners. They were keeping a lot of stuff out of there and would continue. When they did the C&D recycling this year he thought they would all be amazed at what they pulled out of the C&D waste.

Mr. Foxworth said if everything looked good with the piggyback permitting...because he knew at one point there was a goal of making mounting match but as soon as they got passed that critical junction to help out some of the people and preserve the airspace to permit that out and let it go somewhere else. It would not bother him a bit. Mr. Knight said they had spoken to a guy the other night that said a group from Horry County went to James Island thirty five years ago and looked at incineration and transfer stations and was really going to jump on it in Horry County. He guessed there were so many people against incineration then and was still against it. Mr. Foxworth said in 1994 a group went to Tennessee to look at composting mechanism and that looked like a good alternative to him. There were ways out there and some of them were expensive but with the waterway system, water table and growth they had...they were not going to get tourists to recycle, he did not care what they did. They were not going to come and put their pizza box in a separate place from their soda cans.

Mr. Hilal asked why they could not do that as a county. Ms. Gilland said some places were mandatory. Mr. Worley said the hotel business actually worked with the Solid Waste Authority when Ricky Hardee was there and it was tough. They did it for a couple of months and he could tell them it took a lot of training and was very expensive on the hotel operation. Mr. Hilal said it would be habit forming. He did it in his house. His wife was not even doing it but now she wanted to. Mr. Worley said it literally had to be designed into the building. The program had to be architecturally designed in the building in order for it to work.

Mr. Loftus said and they had to make the alternative so bad they were forced to recycle they just did not care, especially those on vacation. Ms. Gilland said they had folks move here all the time that come from states that had mandatory recycling and they were very used. Mr. Loftus said that was because, they had to do it. Until they made the alternative worse than recycling...Ms. Gilland said some wont but others will. That was why they did it at the school programs so the children will learn coming up. Mr. Foxworth said if they were in a motel room for five days with three kids with a tiny trash can he was not sure the coffee grinds would end up where they thought they would.

E. Recycling Incentive Overview. Mr. Knight said in their books he thought they had talked about the recycling incentive but on page 40, there was a chart on the credits and what the credits meant. On pages 38-39 was the information they went through. He stated that Mr. Bessant was going to do the next group and they were doing it for the simple reason they knew they had a lot of questions from some of the community that they had promised to do certain things and they did not do it and so they had an update in there that they could read at their leisure.

F. Facilities Issues Negotiations (FIN). Mr. Bessant said on page 40 was a copy of the FIN Committee which was the facility issued negotiations they did with the community on Hwy 90. They were what Council approved at a meeting through a resolution. He wanted to let them know some of the things they had heard back from the community. The speed limit on Hwy 90 was a big issue in the community and they asked them to write a letter and try to get to speed limit reduced 45 MPH from Hwy 22 to Hwy 501. They wrote that letter and the board approved it and they passed that letter on to the SCDOT and they said the speed limit was not an issue on Hwy 90 and would not consider reducing it. However they did agree to put a 45 MPH yellow sign up close to the entrance of the landfill to tell people to slow down coming through the landfill. No Littering signs were asked to be put up on Hwy 90 and those had been put up by SCDOT. The other issue was a diesel lane and they had a diesel lane coming from NMB but not from Conway and that was an issue

with the FIN Committee. They met with the CTC Board last week and they agreed to help fund it. The agreement with the FIN Committee was they would have to save the money up over two to three years in order to try to do that. With the help of CTC, they may be able to do it a little quicker. They agreed to help them in the amount of \$160,000 to help put that in. Those things were moving forward.

One of the things they talked about was when they started taking dirt off of the 1187 acres for the landfill was to try to find a way that the trucks would not have to go on Hwy 90. They were currently working on that to try to get a bridge across at the back end of the property so they could use it for dirt to keep them off of Hwy 90. They had run across some issues with that but they were working on it as they were moving forward. They wanted more swap shops at the recycling centers and they had added four, which the Infrastructure Committee approved. Those were in place and currently operating at four more recycling centers. That put a total of 8 in the system of 24. They also asked that one of the things with the piggyback expansion was they would try to reduce the visibility of the landfill from Hwy 90 in front of the shop. They were going to plant 38 trees along Hwy 90 so the landfill could not be seen.

Mr. Foxworth asked whose idea were the trees. Mr. Bessant said the FIN Committee. Mr. Knight said he thought they put that in the state law on a private landfill. The committee did not have a say so in what happened. It was a mandatory process and he coined it that you invite everybody to a party that did not like you and you paid for it and you had to listen to what they said. They got along and they had more meetings than required by law. They had done a lot of things prior to the FIN Committee. He thought one of the things they were getting the most mileage out of was they had adopted 8 miles off of Hwy 90. They pick the paper up and cut the grass about every two and a half to three weeks. They were getting a lot of good comments on that. Mr. J. Prince said he was getting less calls so that was good. Mr. Bessant said one good thing was it opened up a lot of communication. Some of the board members were out there the day before and stopped by and saw them so it opened up a line of communication.

Mr. Bellamy said Mr. Bessant had said they had two swap shops and he was wondering in how many recycling centers around Horry County. Mr. Bessant said 24. Mr. Bellamy asked if there was a way since they had plans on them already they could get the \$19,000 or whatever got so much for one thing could that be applied for it to buy a half dozen others. Mr. Weaver said it had to be capital improvements. Mr. Knight said they were about \$600 each. Mr. Bessant said some of the centers were so small they could not put swap shops in them.

Mr. Loftus asked where they were on the Socastee Recycling Center. Mr. Knight said the county was going to take the lead on paving the road. Bids on site work and the roads had been completed. When they cleared Hwy 31 right-of-way they blocked the drainage for that area so they had asked their contractors to hold up a couple of weeks until they got some temporary drainage opened up through there. They bid it, had a contract and got a good price but drainage at the time was based on Hwy 31. Mr. Loftus said so they would be moved by the end of the year. Mr. Knight said hopefully. Mr. Loftus asked what the status was on the Black Bear Conference Center. He asked if it was in hibernation or in a coffin. Mr. Knight thought it had one foot in the coffin.

Ms. Gilland said it was the round table discussion so it was the time for any other questions, comments or statements. Mr. J. Prince said he had asked his questions as they went along and had learned a lot. He thanked the folks for coming and said it had been very beneficial to him. Mr. Long said they were glad to have them there and it was their Authority as well as every other member of Horry County. Anytime they had any questions or saw something in the paper and did not understand it or want to hear the other side of it, please come out. Mr. J. Prince said some of the problems with that was that Mr. Weaver was steadily pounding in his ear that he better stay away from the Planning Commission and Authorities and Boards or they would have him in Columbia with the Ethics Committee. He was not going to call them. The only way they could communicate was the way they had that day. It was important for their constituents to know and

he would think that he would want to do that. Mr. Long said they did. Mr. J. Prince said just to alleviate some pressure on them as well. He told them that anytime they set it up he would be there.

Ms. Gilland said they appreciated the Board taking the time to meet with them. It was good for both boards to have a face to face to know who was working with and for them. What they knew and was sure of was they had awards that were in the cases that had told folks they had a Solid Waste Authority and all they did in Horry County was award winning statewide and regionally and the whole list of landfills that Mr. Bessant passed out, there was not one on there in the state that did what Horry County's did. They did recycling, compost, hazardous materials and they went way far and beyond everyone else in state and other folks outside recognized how good they were. It was a shame that sometimes the citizens or even members of Council did not recognize the quality they had. They should all be really proud of that group of men and employees particularly that did the hands on work. The citizens should be proud too. She thought sometimes they did not brag on themselves enough. They did it at less expense than every other landfill in the state except the one that just dug a hole and buried it. She thought there were a lot of things to brag about in Horry County that Horry County Government touched, controlled or mandated but as far as the Authority, despite the fact that Mr. Foxworth did not like authority....that crowd...the whole Solid Waste Authority that they were members of the staff people...Mr. Knight and his team did an incredible job and she for one applauded and thanked him and thought Council did too. She wished the public knew what they knew about what the Solid Waste Authority did because they did an incredible job.

Mr. Knight said they appreciated them also. He told the Board the night before to please not look at the meeting as if they had been called to the principal's office. Some of them did not know what that meant but he and Mr. J. Prince did. That was not the way they took it and if they could set it up quarterly or every six months he thought it did them all good to know what was going on. They were as open as they could get out there. The doors were now unlocked and they welcome anybody to come by and ask questions.

Mr. Frazier thought that every Council Member there should have to do what he had to do when he was Chairman of the Solid Waste Committee...they buried themselves...he never wanted that job again. It was not that easy. He was on the SCAC Board and people always asked him how in the world he was going to do it and he told them they had a Solid Waste Authority that did it. Back then everybody created jobs but nobody wanted them. They needed to leave them alone and let them do their job.

ADJOURNMENT: Ms. Gilland adjourned the meeting at 5:10 p.m. The SWA Board retreated for a brief meeting to reconsider a procurement issue.

