

Indian River County Florida



Solid Waste Disposal District Draft Meeting Minutes

Indian River County
Administration Complex
1801 27th Street, Building
A
Vero Beach, Florida,
32960-3388
www.indianriver.gov

Board of Commissioners

Susan Adams, District 1, Chairman
Joseph Flescher, District 2, Vice Chairman
Joseph H. Earman, District 3
Deryl Loar, District 4
Laura Moss, District 5

John A. Titkanich, Jr., County Administrator
William K. DeBraal, County Attorney
Ryan L. Butler, Clerk of the Circuit Court and Comptroller
Shauna James, Deputy Clerk

Tuesday, January 9, 2024

Commission Chambers

B. Solid Waste Disposal District

15.B.1. Approval of SWDD Meeting Minutes of November 7, 2023

A motion was made by Vice Chairman Flescher, seconded by Commissioner Loar, to approve the Solid Waste Disposal District Meeting Minutes of November 7, 2023 as written. The motion carried by the following vote:

Aye: 5 - Chairman Adams, Vice Chairman Flescher, Commissioner Earman, Commissioner Moss, and Commissioner Loar

15.B.2. Approval of SWDD Meeting Minutes of November 21, 2023

A motion was made by Vice Chairman Flescher, seconded by Commissioner Loar, to approve the Solid Waste Disposal District Meeting Minutes of November 21, 2023 as written. The motion carried by the following vote:

Aye: 5 - Chairman Adams, Vice Chairman Flescher, Commissioner Earman, Commissioner Moss, and Commissioner Loar

15.B.3. Work Order No. 5 to Geosyntec for Annual Permit, Compliance Monitoring, and Reporting for 2024

Director of Utility Services, Sean Lieske, on behalf of the Solid Waste Disposal District, presented an amendment to Work Order No. 5. The amendment was related to the landfill's annual permits, which include a Class I landfill permit, an air permit, and a stormwater permit. The agreement with Geosyntec Consultants was to assist with managing these permits, including monitoring and reporting requirements. The cost of this agreement was \$296,305.68.

There was no further discussion on this Item.

A motion was made by Commissioner Earman, seconded by Vice Chairman Flescher, to approve staff's recommendation. The motion carried by the

following vote:

Aye: 5 - Chairman Adams, Vice Chairman Flescher, Commissioner Earman, Commissioner Moss, and Commissioner Loar

15.B.4.

Amendment No. 4 to Landfill Gas Agreement with Nopetro Eco District, LLC Utility Services Director Sean Lieske referred to staff's memo dated December 28, 2023, as there had been a series of amendments associated with the agreement with Nopetro Eco District, LLC (NED), the most recent being Amendment No. 3 Agreement to grant 12 months to the Natural Landfill Gas (LFG) agreement commencement date from June 30, 2023, to June 30, 2024. Mr. Lieske presented Amendment No. 4, which was strictly to extend the contract based on the requirement of their project financing entity to ensure that the termination of the agreement would be beyond the project schedule for completion.

Under discussion, Vice Chairman Flescher, Commissioner Loar, and Commissioner Moss expressed their discomfort with the language in the contract, specifically the use of gross receipts versus net proceeds. They stated that they did not favor moving forward with the contract.

County Attorney Bill DeBraul received confirmation that the 10-year extension to the 20-year contract was no longer on the table. NED CEO Jorge Herrera stated during the last meeting that an extension of three and a half months beyond the outside date had been requested, citing factors that were within their control at the time. Their main concern was that if there was a delay and they could not finish by the deadline, they would not be able to close on their construction loan.

Commissioner Loar stated his concern regarding the recent changes and extensions made to the Amendments. He requested from NED and Assistant County Attorney Keith Jackman a more precise definition of the gross receipts.

Attorney Jackman suggested postponing the discussion until the January 23, 2024, BCC meeting, as there were concerns regarding the contract's legal sufficiency. The County's gross receipts appeared to cover NED's consumables, taxes, and operational costs, creating ambiguity. The contract should reflect this if the County intended to cover these costs.

Chairman Adams expressed frustration with this ongoing project that began in 2019, which incurred numerous costs and several improvements at the county landfill. The leachate issue was addressed by installing a landfill evaporator to access the landfill gas. The plan was to convert the landfill gas into electricity, but the County decided on the pipeline instead, which led to the leachate issue. She

stated the Florida City Gas commissioner had used this potential project to get a gas line extension to the beach, but getting the necessary agreements had been a challenge. All amendments, including Amendment Three, had been approved, and additional language was added as requested by the County. However, new attorneys had interpreted the Amendments differently, delaying the project's final phase. An extension of the contract for this project was needed to secure funding.

Chairman Adams was concerned that the time between now and the January 23rd meeting was not enough time to vet everything. Amendment No. 4 was presented as a simple extension to acquire funding. Delaying it would require budget input, vetting on different market conditions, and comparing contracts from Jacksonville and Indian River County. She stated even if the County Attorney's office and all the other staff focused solely on this, it would still take longer than the funding deadline. If there was no funding, the project would not happen. Chairman Adams was glad to see progress in the willingness to have conversations on both sides but worried that there would be nothing to discuss if the decision was delayed.

A lengthy discussion ensued about whether the Attorney's office and representatives from NED could renegotiate the contract language before the BCC Meeting on January 23, 2024.

A motion was made by Commissioner Moss, seconded by Commissioner Loar, to postpone the vote until the January 23, 2024 regular meeting, to allow for requested changes to the language in the existing contract. The motion carried by the following vote:

Aye: 3 - Vice Chairman Flescher, Commissioner Moss, and Commissioner Loar

Nay: 2 - Chairman Adams, and Commissioner Earman