

(11)

**AD HOC REPORT  
Solid Waste Authority**

Honorable Mark D. Boughton, Mayor  
City Council Members

June 19, 2013

Chairman Teicholz called the meeting to order at 6:00P.M. In attendance were council members Haddad and Chianese. Deputy Corporation Counsel Laszlo Pinter and a member of the public were also in attendance.

Following introductions, Chairman Teicholz read a portion of a letter from Mayor Boughton dated March 26, 2013, which is the charge of the committee to review the proposed Host Community Benefit and Cooperation Agreement, adoption of a revised ordinance establishing the DSWRA, reappoint members for services on the DSWRA for defined periods and request a Public Hearing on the matter.

The Deputy Corporation Counsel was called upon to give background and an overview of the proposed agreement and ordinance. Atty. Pinter stated that this goes back to the federal legal problems with the transfer station and the City was going to attempt to secure the assets and turn the transfer station into a municipal facility. The transfer station and assets were later sold to Winters Brothers. The City, through long periods of discussions and negotiations, and the creation of a solid waste authority to work with them, cooperated and obtained some financial benefits. After 3 years of negotiations and discussions, an ordinance was adopted. The committee is now asked to adopt an amended ordinance, which takes the purchase of the assets off the table but still allows the Authority to manage and monitor the cooperative agreement with Winters Brothers. The Ordinance is otherwise the same. Three members are proposed for the Authority and the council is asked to approve those appointments and lastly to recommend approval of the Host Community Benefit and Cooperation Agreement. Winters Brothers would still operate the business and work with HRRRA for disposal of solid waste and would still accept other types of waste including construction waste materials.

Atty. Pinter continued by giving an overview of the Host Community Benefit and Cooperation Agreement. Highlights of the overview are as follows: the agreement goes thru the end of 2019, there are renewal provisions, the financial benefits include a charge of \$1.00 per ton for certain material with the funds earmarked for road repairs and other improvements if the agreement is executed the City would receive two payments of \$50,000 each and civic duties performed by Winters Brothers. Council member Chianese recommended the addition of language indicating that the two payments equaling \$100,000 be added to Article 4 subsection 4.3 as going into the general fund. Atty. Pinter advised that the Authority would have a \$5,000 budget.

Atty. Pinter brought Article 9 to the attention of the committee. He stated that HRRRA has a minimum tonnage guarantee with Wheelabrator. Winters Brothers has promised that they will endeavor to maintain it, so that neither HRRRA nor Danbury gets penalized.

Council member Haddad asked for clarification on the procedure for complaints with Winters Brothers regarding dust. Atty. Pinter advised that the Authority would not necessarily handle these types of complaints, but rather he should contact the Health Department.

Council member Chianese asked for clarification of Article 7 subsection 1. Atty. Pinter advised that the Authority would have the ability to create procedures.

Next Atty. Pinter referred the committee's attention to the proposed Ordinance. Council member Chianese, referring to Section D subsection 6, asked if the appointment of the Director of Public Works as the Executive Director would be a conflict of interest. Atty. Pinter advised that it is an unpaid position, the mayor makes the appointment and the Council approves and therefore there would be no conflict. The Director of Public Works is simply taking on another piece of work, Council member Teicholz asked for clarification of the director's designee. Atty. Pinter advised that the director would have the option to send a designee for the purpose of continuity. The Authority

would not have a job description for the executive director and would not have the power to hire their own director.

Atty. Pinter advised that any substantive changes to the Ordinance would have to come thru the Council per Article 15. Subsection 6.

Council member Chianese inquired about a meeting schedule for the Authority and recommended that the Authority would meet a minimum of once per year.

Atty. Pinter advised that if a positive recommendation were made to the Council for the Ordinance, it would then go to a public hearing. The agreement would not need to go to a public hearing, but would be on hand for any questions.

**Council member Chianese moved to recommend to the Council as a Whole that the Ordinance as amended, to reestablish the solid waste authority, go to a public hearing as discussed at the meeting along with the amended Host Community Benefit and Cooperation Agreement and to appoint the proposed members,** seconded by council member Haddad. ***Motion passed by unanimous vote.***

**Council member Chianese moved to adjourn at 6:45P.M.** seconded by council member Haddad. ***Motion passed by unanimous vote.***

Respectfully submitted,

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Mary Teicholz, Chairman

\_\_\_\_\_  
Michael Haddad

\_\_\_\_\_  
Ben Chianese

**COPY SHOWING DELETIONS AND NEW LANGUAGE**

THAT Section 2-56.18 of the Code of Ordinances of Danbury, Connecticut is hereby amended to read as follows:

Sec. 2-56.18. - Solid waste and recycling authority.

(a) *Statement of purpose.* The Danbury Solid Waste and Recycling Authority (the "authority") is hereby created as a municipal resource recovery authority pursuant to CGS Sections 7-273aa to 7-273oo, inclusive. The authority is a public body politic and corporate of the State of Connecticut (the "state"), and is a political subdivision of the state established and created for the performance of the essential public and governmental function of furthering the health, safety and welfare of the residents of the City of Danbury, Connecticut (the "city") by exercising supervision and control over the operation and administration of the solid waste and recycling operations at the transfer station located at White Street and Beaver Brook Road, Danbury, Connecticut (the "transfer station").

(b) *Definitions.* For purposes of this ORDINANCE ~~section~~, each of the following terms shall have the meaning set forth below:

~~Asset transfer agreement shall mean an agreement by and between the city and the authority which shall set forth the terms and conditions of the disposition by the city to the authority by sale or lease of the solid waste assets.~~

*Authority* shall mean the Danbury Solid Waste and Recycling Authority established pursuant to this ORDINANCE ~~section~~.

*Board* means the board of directors of the authority.

*Bylaws* shall mean the rules and regulations that, subject to statutory law and the articles of incorporation, govern the business and conduct of the affairs of the authority.

*CGS* shall mean the General Statutes of Connecticut, Revision of 1958, as amended.

*City* shall mean the City of Danbury, Connecticut.

*Effective date* shall mean the date upon which this ORDINANCE ~~section~~ becomes effective.

*Mayor* shall mean the mayor of the City of Danbury.

~~*Solid waste assets* shall mean such real and personal property utilized for the reduction and transfer of solid waste and recycling at the transfer station, including such assets as may be transferred to the authority by the city, such solid waste assets to be further defined under the asset transfer agreement.~~

(c) *Creation and powers.* The city hereby adopts the provisions of CGS Chapter 103b and creates the board of directors of the authority as its municipal resource recovery authority. The authority shall have all the powers set forth in CGS Chapter 103b and the powers and duties of a municipal authority pursuant to CGS Chapters 446d and 446e.

(d) *Articles of incorporation of the authority.*

(1) *Name, address, authority for creation.* The authority is created as a municipal resource recovery authority pursuant to CGS Sections 7-273aa to 7-273oo, inclusive, and shall be known as the "Danbury Solid Waste and Recycling Authority" with its principal office at 155 Deer Hill Avenue, Danbury, Connecticut 06810.

(2) *Initial directors—Names, addresses, terms of office.* The names, addresses and terms of office of the initial directors of the authority are set forth on Exhibit A attached HERETO, ~~to the ordinance from which this section is derived and available for inspection in the office of the city clerk.~~

(e) *Board of directors.* The business of the authority shall be managed by or under the direction of the board of directors which may exercise all such powers of the authority and do all such lawful acts and things as are allowed by the CGS and the bylaws.

(1) *Number of directors.* The authority shall have a board of directors consisting of five (5) directors. All directors shall be residents or electors of the city.

(2) *Compensation.* The directors shall serve without compensation.

(3) *Method of appointment and removal.* The mayor of the city, with the approval of the majority of the CITY ~~council~~ council, shall select and appoint the directors of the board, and the Mayor may remove a director.

The board of directors may not remove a director of the board.

The terms of directors shall be so arranged such that less than one-half (1/2) of such terms of directors shall expire within any one (1) calendar year.

(4) *Term of office.* Except for the initial terms of the initial directors, the term of office of directors shall be for three (3) years, commencing on January 1 of the first year of the term and expiring on December 31 of the third year of the term.

The initial term of office of each of the initial directors of the authority shall commence on the effective date and shall expire on either December 31, 2013 ~~2009~~, December 31, 2014 ~~2010~~ or December 31, 2015 ~~2011~~, as set forth on Exhibit A attached hereto. Upon the expiration of each initial term of office for each of the initial directors, a new term of office of three (3) years shall commence for each subsequent director appointed.

(5) The formation of the board of directors shall comply with all other applicable state and local laws, as may be applicable. All relevant federal, state and local laws pertaining to conflicts of interest by board membership shall be strictly observed and enforced.

(6) EXECUTIVE DIRECTOR. FOR THE PURPOSES OF OPERATIONAL MANAGEMENT OF AUTHORITY DIRECTED ACTION, THE DANBURY DIRECTOR OF PUBLIC WORKS OR HIS DESIGNEE SHALL BE DEEMED THE AUTHORITY EXECUTIVE DIRECTOR, SERVING WITHOUT COMPENSATION, UNLESS DETERMINED OTHERWISE BY THE AUTHORITY AND THE CITY COUNCIL, BY AMENDMENT TO THIS ORDINANCE.

~~(f) Disposition and transfer of assets. Any and all assets to be transferred to the authority by the city, including assets to be transferred under the asset transfer agreement shall be transferred in accordance with any requirements of the Charter of the city, including, without limitation section 3-17, and any requirements of the General Statutes of Connecticut, including, without limitation CGS Section 7-163e and Sections 22a-134 through 22a-134e.~~

(f.g) Other ordinances, PROVISIONS and repealer.

OPERATION WITH EXISTING LAW.

(1) Article V, Municipal Solid Waste Management, of the Code of Ordinances of the City of Danbury IN SECTION 16A-90 et seq AS MAY BE AMENDED (the "Code") and any other ordinances in the Code that pertain to solid waste and recycling shall, for the purposes of this subsection, be referred to as the "solid waste ordinances". The authority is hereby expressly empowered and authorized to administer and/or enforce the solid waste ordinances to the extent necessary to effectuate this ORDINANCE section and to the extent of the authority's powers as set forth in this ORDINANCE section, and provided that there shall at all relevant times be a furtherance of the purpose for which the authority has been created. Nothing herein gives the authority sole and exclusive control over the administration and/or enforcement of all of the solid waste ASSETS AND ordinances. To the extent that the authority adopts regulations or rules that conflict with the solid waste ordinances, the solid waste ordinances shall govern.

(2) This ORDINANCE section shall supersede and replace ordinances of the city in existence to the extent that they are inconsistent with this ORDINANCE section.

(g.h) *Flow control.* The city hereby agrees to maintain an ordinance, to the extent lawful pursuant to the CGS and all other applicable law, for the purpose of designating an area or areas where all solid waste and recyclables, as designated in such ordinance, generated within the boundaries of the city shall be disposed.

(h.i) *Dissolution.* The city retains the right to dissolve the authority. Upon dissolution, the city agrees to assume, or satisfy, the liabilities and outstanding obligations of the authority, including without limitation, and bonds or notes issued by the authority, and all of the authority's interest in all assets of the authority shall be transferred to and vest in the city.

(i) MEETINGS. THE AUTHORITY SHALL MEET AT LEAST ONCE ANNULALY FOR THE CONDUCT OF ITS BUSINESS.

Note: New language is indicated by CAPITALIZATION COMBINED WITH UNDERLINING except that capitalization is not utilized for the letters in parentheses which indicate subsections.  
Deleted language is indicated by ~~strikethroughs~~.



# ORDINANCE

11-5

## CITY OF DANBURY, STATE OF CONNECTICUT CITY COUNCIL

\_\_\_\_\_ A.D. 2013

**Be it ordained by the City Council of the City of Danbury:**

THAT Section 2-56.18 of the Code of Ordinances of Danbury, Connecticut is hereby amended to read as follows:

Sec. 2-56.18. - Solid waste and recycling authority.

(a) *Statement of purpose.* The Danbury Solid Waste and Recycling Authority (the "authority") is hereby created as a municipal resource recovery authority pursuant to CGS Sections 7-273aa to 7-273oo, inclusive. The authority is a public body politic and corporate of the State of Connecticut (the "state"), and is a political subdivision of the state established and created for the performance of the essential public and governmental function of furthering the health, safety and welfare of the residents of the City of Danbury, Connecticut (the "city") by exercising supervision and control over the operation and administration of the solid waste and recycling operations at the transfer station located at White Street and Beaver Brook Road, Danbury, Connecticut (the "transfer station").

(b) *Definitions.* For purposes of this ordinance, each of the following terms shall have the meaning set forth below:

*Authority* shall mean the Danbury Solid Waste and Recycling Authority established pursuant to this ordinance.

*Board* means the board of directors of the authority.

*Bylaws* shall mean the rules and regulations that, subject to statutory law and the articles of incorporation, govern the business and conduct of the affairs of the authority.

*CGS* shall mean the General Statutes of Connecticut, Revision of 1958, as amended.

*City* shall mean the City of Danbury, Connecticut.

*Effective date* shall mean the date upon which this ordinance becomes effective.

*Mayor* shall mean the mayor of the City of Danbury.

*Solid waste assets* shall mean such real and personal property utilized for the reduction and transfer of solid waste and recycling at the transfer station.

(c) *Creation and powers.* The city hereby adopts the provisions of CGS Chapter 103b and creates the board of directors of the authority as its municipal resource recovery authority. The authority shall have all the powers set forth in CGS Chapter 103b and the powers and duties of a municipal authority pursuant to CGS Chapters 446d and 446e.

(d) *Articles of incorporation of the authority.*

(1) *Name, address, authority for creation.* The authority is created as a municipal resource recovery authority pursuant to CGS Sections 7-273aa to 7-273oo, inclusive, and shall be known as the "Danbury Solid Waste and Recycling Authority" with its principal office at 155 Deer Hill Avenue, Danbury, Connecticut 06810.

(2) *Initial directors—Names, addresses, terms of office.* The names, addresses and terms of office of the initial directors of the authority are set forth on Exhibit A attached hereto.

(e) *Board of directors.* The business of the authority shall be managed by or under the direction of the board of directors which may exercise all such powers of the authority and do all such lawful acts and things as are allowed by the CGS and the bylaws.

(1) *Number of directors.* The authority shall have a board of directors consisting of five (5) directors. All directors shall be residents or electors of the city.

(2) *Compensation.* The directors shall serve without compensation.

(3) *Method of appointment and removal.* The Mayor of the city, with the approval of the majority of the City council, shall select and appoint the directors of the board, and the Mayor may remove a director.

The board of directors may not remove a director of the board.

The terms of directors shall be so arranged such that less than one-half (1/2) of such terms of directors shall expire within any one (1) calendar year.

(4) *Term of office.* Except for the initial terms of the initial directors, the term of office of directors shall be for three (3) years, commencing on January 1 of the first year of the term and expiring on December 31 of the third year of the term.

The initial term of office of each of the initial directors of the authority shall commence on the effective date and shall expire on either December 31, 2013, December 31, 2014 or December 31, 2015, as set forth on Exhibit A attached hereto. Upon the expiration of each initial term of office for each of the initial directors, a new term of office of three (3) years shall commence for each subsequent director appointed.

(5) The formation of the board of directors shall comply with all other applicable state and local laws, as may be applicable. All relevant federal, state and local laws pertaining to conflicts of interest by board membership shall be strictly observed and enforced.

(6) *Executive Director.* For the purposes of operational management of authority directed action, the Danbury Director of Public Works or his designee shall be deemed the authority executive director, serving without compensation, unless determined otherwise by the authority and the city council, by amendment to this ordinance.

(f) *Other ordinances, provisions and repealer.*

Operation with existing law.

(1) Article V, Municipal Solid Waste Management, of the Code of Ordinances of the City of Danbury in Section 16A-90 et seq as may be amended (the "Code") and any other ordinances in the Code that pertain to solid waste and recycling shall, for the purposes of this subsection, be referred to as the "solid waste ordinances". The authority is hereby expressly empowered and authorized to administer and/or enforce the solid waste ordinances to the extent necessary to effectuate this ordinance and to the extent of the authority's powers as set forth in this ordinance, and provided that there shall at all relevant times be a furtherance of the purpose for which the authority has been created. Nothing herein gives the authority sole and exclusive control over the administration and/or enforcement of all of the solid waste assets and ordinances. To the extent that the authority adopts regulations or rules that conflict with the solid waste ordinances, the solid waste ordinances shall govern.

(2) This ordinance shall supersede and replace ordinances of the city in existence to the extent that they are inconsistent with this ordinance.

(g) *Flow control.* The city hereby agrees to maintain an ordinance, to the extent lawful pursuant to the CGS and all other applicable law, for the purpose of designating an area or areas where all solid waste and recyclables, as designated in such ordinance, generated within the boundaries of the city shall be disposed.

(h) *Dissolution.* The city retains the right to dissolve the authority. Upon dissolution, the city agrees to assume, or satisfy, the liabilities and outstanding obligations of the authority, including without limitation, and bonds or notes issued by the authority, and all of the authority's interest in all assets of the authority shall be transferred to and vest in the city.

(i) *Meetings.* The authority shall meet at least once annually for the conduct of its business.