

# WHATCOM COUNTY SOLID WASTE EXECUTIVE COMMITTEE

## JULY 18, 2017 MEETING MINUTES

### **Committee Members Present**

Jack Louws, Whatcom County Executive  
Scott Korthuis, Mayor, City of Lynden  
John Perry, Mayor, City of Everson  
Ted Carlson, Public Works Director, City of Bellingham  
David Wilbrecht, City Manager, Blaine – By Phone

### **Committee Members Absent**

James Ackerman, Mayor, City of Nooksack  
Greg Young, City Administrator, City of Ferndale  
Bob Bromley, Mayor, City of Sumas

### **Staff Present**

Jeff Hegedus, Environmental Health Supervisor, Whatcom County Health Department  
Janice Deptuch, Clerk III, Whatcom County Health Department  
John Wolpers, Environmental Health Manager, Whatcom County Health Department  
Patty Proctor, Accounting Supervisor, Whatcom County Health Department

## **AGENDA**

### **Call to Order**

The meeting of the Solid Waste Executive Committee was called to order by County Executive Jack Louws on Tuesday, July 18, 2017 at 10:40 a.m. at Lynden City Hall.

### **Introductions**

We went around the room and everyone introduced themselves.

### **Approval of 2016 Meeting Minutes and SWEC Bylaws**

The minutes for the July 19, 2016 SWEC meeting were approved as written. The motion for approval of the July 19, 2016 minutes and SWEC bylaws was made by Scott Korthuis and 2<sup>nd</sup> by Ted Carlson. Motion approved by all.

### **Whatcom County 2016 Comprehensive Solid and Hazardous Waste Management Plan Update**

The Whatcom County 2016 Comprehensive Solid and Hazardous Waste Management Plan update has been completed and approved. The update of the existing 2008 plan, as required by RCW 70.95, describes the current solid and hazardous waste management system and makes recommendations for potential future implementation.

On October 11, 2016 staff presented the draft update to the 2008 plan at the Public Works, Health and Safety Committee prior to a scheduled public hearing requesting review and approval. Discussion in committee ensued regarding questions about the current city of Bellingham solid waste disposal contract bid and award process, and the agenda item was held in committee pending a motion to request information from the city regarding the contracting process.

On January 24, 2017 the draft update was again presented in committee, and was approved that evening by County Council. Subsequently, final review and approval was conducted by the Department of Ecology.

### **Solid Waste Operations Update**

It has been two years since the Solid Waste Program at the Whatcom County Health Department has taken over the full Solid Waste Program from Public Works. All business functions have been transferred.

The Health Department Solid Waste Program conducts solid waste planning activities, regulates over 35 permitted and exempt county solid waste handling facilities, contracts for operation of the county Disposal of Toxics program, monitors and maintains closed county landfills, responds annually to approximately 300 illegal dumping complaints, manages waste reduction and recycling community outreach and education programs, responds to public waste management inquiries, manages the litter and Adopt-A-Road programs, and supports the Solid Waste Advisory Committee.

The Disposal of Toxics facility, including the operation of three satellite collection stations and one round-up collection event in Point Roberts, processed 9,239 residential and commercial customer transactions in 2016. A total of 329,603 pounds of waste chemicals were collected and recycled, and 171,421 pounds of waste chemicals were collected and properly treated and disposed, for a total of 501,024 pounds. In an effort to increase efficiencies, a program to automate waste intake, tracking and invoicing functions for commercial customers, using portable tablet computers, was completed.

As a follow-up to last year's successful event, staff recently conducted a countywide two day Waste Tire Amnesty collection event, at the Birch Bay-Lynden Rd. solid waste handling facility, and cleaned out an estimated 10,200 waste tires from 550 customers from back yards, farms and ravines. The event was well received by the community, and leveraged a Department of Ecology program that covered all waste tire transportation and recycling costs. David Wilbrecht asked if Department of Ecology did as a donation. Jeff Hegedus responded that Department of Ecology paid for transportation and disposal of the tires. Whatcom County Health Department loaded them and Department of Ecology picked them up, Public Works was also involved.

Waste reduction and recycling community education and outreach programs are now fully and successfully implemented and on track for the youth (ReSources Sustainable Schools program), adult (WSU Master Composter/ Master Recycler program) and commercial (Sustainable Connections Toward Zero Waste program) target populations. Additionally, with Puget Sound Partnership funding as implemented by Ecology, staff additionally conduct 165 commercial solid and hazardous waste technical assistance site visits per year, and implement the county EnviroStars program.

Staff continue to meet with the Point Roberts Community Advisory Committee (PRCAC) to consider and develop potential improvements to solid waste system management regarding current and preferred levels of service, costs of service, illegal dumping, regulatory approaches and service provider issues. Currently, PRCAC has made formal motion to request that staff investigate the feasibility of implementing mandatory curbside collection services, with provision for seasonal residents, paid for through property taxes, and organized through some form of existing utility, disposal and/or collection district authority. David Wilbrecht asked if it was illegal to charge on the property taxes and Jeff Hegedus responded that it is not illegal and it is currently being done in Illinois and San Francisco, as well as Canada Cedarville Landfill monitoring and maintenance activities continue as per the approved closure plan, and application to Ecology for the required NPDES permit renewal is complete. Y Road Landfills maintenance and monitoring proceeds without incident; an adjoining property owner has made an offer to purchase a portion of the property via lot line adjustment, which is under consideration by the county Property Management Committee.

As per recommendation 8.3.4 of the approved 2016 Comprehensive Solid and Hazardous Waste Management Plan, following the state's failure to approve HB1047 to implement a waste pharmaceutical take-back and disposal program, staff are proceeding to assess the feasibility of implementing a local program such as those approved in King, Snohomish, Kitsap and Pierce counties.

Adopt-A-Road program activities, Birch Bay solid waste collection and Birch Bay July 4<sup>th</sup> cleanup efforts continue as per routine.

### **Proposed Amendment to WCC 8.13, Solid Waste Disposal District, Regarding the Solid Waste Excise Privilege Tax**

WCC 8.13.140, Annual review of tax requirements states that the executive committee shall annually review the tax requirements to fund the solid waste disposal programs and advise the county council of their findings (Ord. 2014-050 Exh. A; Ord. 97-041 Exh. A; Ord. 90-1 § 14).' Additionally, recommendation 9.1.F of the approved 2016 Comprehensive Solid and Hazardous Waste Management Plan states 'Review the adequacy of the existing excise tax levy and exemptions to address recent state funding reductions.'

## Background

Prior to 1997, as per Ordinance 90-1, solid waste management statutory obligations and programmatic requirements were funded by a \$9.00 per ton solid waste surcharge that applied to all solid waste generated in the county. Due to a 1997 solid waste legal arbitration ruling, the surcharge was repealed and replaced by an excise tax. Ordinance 97-41 amended WCC 8.13.030, Excise privilege tax levied, and implemented a solid waste excise tax, not to exceed \$8.50 per ton, excluding recyclable materials, that applies only to solid waste collected by certificated and franchised solid waste haulers, as per WCC 8.11.030, rather than to all solid wastes.

Due to subsequent increases, over time, in allowed exemptions to mandatory collection by certificated and franchised haulers, as per WCC 8.11.030, the excise tax has been applied to an ever decreasing percentage of solid waste generated in the county. In 2016, only 65% of the total solid waste disposed in the county was subject to the excise tax. This has resulted in decreased revenues to fund solid waste services. Additionally, state grant funding for solid waste services was reduced by 38% in 2015, and reduced further by another 36% in 2017, resulting in a current \$230,000 annual reduction of state grant funding used to fund the Disposal of Toxics and illegal dumping compliance enforcement programs.

The combined reductions in excise tax and state grant revenue have resulted in levels of funding that are currently inadequate to maintain solid waste statutory obligations and programmatic requirements.

## Recommendation

In 2016, the excise tax applied to an estimated 97,055 tons of solid waste collected by certificated and franchised haulers at residential or commercial curbside collection locations. An additional estimated 52,320 tons of solid waste, self-hauled by residential and commercial generators, was not subject to the tax. This results in an estimated 35% of the county solid waste stream that makes no revenue contribution to solid waste services such as the Disposal of Toxics program, waste reduction and recycling programs, compliance enforcement, litter control, landfill management, or planning activities.

To continue funding the Disposal of Toxics program and compliance enforcement of illegal dumping, the state budget cuts must be replaced with another source of revenue. Additionally, a guiding premise of existing solid waste enabling ordinances is that all users of county solid waste system infrastructure and compliance programs and statutory obligations equitably share costs.

As approved by the Solid Waste Advisory Committee on April 27, 2107 it is the staff recommendation that the excise tax also be levied on solid waste transported by residential and commercial self-haulers, as per RCW 36.58.140, rather than only on solid waste transported by certificated and franchised haulers, as per Exhibit A

attached. Levying the excise tax, equitably, at the current established rate of \$8.50 per ton, would generate an estimated \$422,000 in additional revenue for solid waste services. As per WCC 8.13.140, Annual review of tax requirements, the actual excise tax rate would be reviewed annually.

A motion was made for the approval of the amendment to WCC 8.13 *Solid Waste Disposal District* that the excise tax be assessed to residential and commercial self haulers, as proposed by staff, 1<sup>st</sup> by Scott Korthuis and 2<sup>nd</sup> by David Wilbrecht; all in favor.

### **Proposed Repeal of WCC 8.14, Garbage Pass-Through Fee**

In 1987, Ordinance 87-17 imposed a per ton pass-through fee on all solid waste disposed at privately owned solid waste disposal facilities, as codified by WCC 8.14, *Garbage Pass-Through Fee*. In 1990, Ordinance 90-1 levied a solid waste excise tax on all solid waste 'collected by each residential dwelling and by each business or institution in the District,' and a surcharge rate, whereby 'Any person not paying the tax shall pay a surcharge rate equal to 125 percent of the usual rate charged for use of county disposal facilities.'

In 1997, due to a solid waste legal arbitration ruling, as per Ordinance the surcharge rate was necessarily repealed and solid waste services became unfunded. To provide funding for solid waste services, use of the existing per ton pass-through fee, as per WCC 8.14, was considered. However, the same legal issues that resulted in repeal of the surcharge rate made the pass-through fee legally untenable as a funding option. Instead, as per Ordinance 97-41, the existing solid waste excise tax was utilized to fund solid waste services.

Because the garbage pass-through fee was considered legally untenable following the 1997 solid waste legal arbitration ruling, and has not been used since as a funding mechanism, it is the staff recommendation that WCC 8.14, *Garbage Pass-Through Fee*, be repealed in its entirety. Discussion from David Wilbrecht, Scott Korthuis, Jack Louws, and Jeff Hegedus about funding and if it was adequate or not. Motion was made to repeal the garbage pass-through fee 1<sup>st</sup> by Ted Carlson and 2<sup>nd</sup> Scott Korthuis, All in favors.

### **Mandatory Collection, WCC 8.11, Solid Waste Recycling and Collection District**

Recommendation 9.1.A of the approved 2016 Comprehensive Solid and Hazardous Waste Management Plan states 'Evaluate the existing exemption program for solid waste collection effectiveness.'

WCC 8.11, Solid Waste Recycling and Collection District currently mandates that all developed properties have curbside solid waste collection services. Originally, property owners could apply for and be granted an exemption to the requirement; the owner would submit the approved exemption form to the hauler, and the hauler

would not invoice for the services. Although well intended, compliance with the requirement was never enforced; haulers did not invoice property owners without an approved exemption who did not use the services, and the county, over time, approved all exemptions, only requiring a statement that solid waste would be properly managed. The exemption process became an administrative overhead burden, and made irrelevant the mandatory collection requirement. Additionally, in a solid waste system designed to be equitably funded by an excise tax on solid waste tonnage collected curbside, self-haulers paid no excise tax and contributed no revenue to solid waste programs, which is still the case today. As a practical consideration, the self-hauling of one's own solid waste to an approved solid waste handling facility is currently generally viewed as an acceptable practice, and enforcement of mandatory collection pending approved exemption still does not occur. For this reason, staff requests policy level discussion and input regarding the mandatory collection requirement. Discussion ensued, and consensus agreement was that the ability to self-haul in the unincorporated areas without requiring an exemption should be allowed.

Scott Korthuis asked if there was a way, if we find garbage and can identify the person can we charge them. Jeff said we work with people. Suggestion was made about making more like a traffic ticket, instead of \$125.00 per day. Group thought more people would be more likely to clean it up. John Perry stated the City of Everson does not want to enforce and doesn't want fee reduced. Jack gave a great example of an issue in the Custer area.

### **2017-2018 Solid Waste Budget**

Patty Proctor gave update on the mid-term adjustment for the budget.

The 2018 mid biennium supplemental budget was presented and approved by the Committee. The budget adjustment covers the loss of revenue from the State CPG funding that is part of the State Capital budget, which has not been approved, and reflects and is contingent on the proposed amendment to the existing solid waste excise tax. Motion to adjust the mid biennium supplemental budget was made 1<sup>st</sup> by Scott Korthuis and 2<sup>nd</sup> by Ted Carlson, all in favor.

### **Open Session, Adjournment**

No public in attendance, and no public comments.  
Adjourn at 11:25 am.