

**MINUTES OF SPECIAL MEETING  
HORRY COUNTY SOLID WASTE AUTHORITY, INC.  
SEPTEMBER 30, 2014**

The Horry County Solid Waste Authority, Inc. held a Special Meeting on Tuesday, September 30, 2014, at 9:00A.M., at the Authority's Administrative Office, 1886 Highway 90, Conway, South Carolina. In accordance with the Freedom of Information Act, notices setting forth the date, time, and place of the meeting were mailed to the news media.

Present were the following Board Members: James H. Cokley, Chairman; M. Lance Thompson, Vice Chairman; M. J. Michael Campbell, Secretary; and Board Members, Pam J. Creech and Dan P. Gray.

Ex Officio Members Steve Gosnell and Bill Graham were not in attendance absent. Mr. Jason Rodriquez of the Sun News represented the members of the media in attendance.

The following individuals were also in attendance: Danny Knight, Executive Director; Mike Bessant, Assistant Executive Director; Esther Murphy, Director; Jan Bitting, Director; Emma Ruth Brittain, Authority Attorney and other staff to include Cecil Terry, Susie Wofford and Nannette Powell.

**CALL TO ORDER**

Chairman Cokley called the meeting to order and asked Mr. Campbell to render the invocation.

**PLEDGE OF ALLEGIANCE**

Chairman Cokley asked Mr. Gray to lead the group in the Pledge of Allegiance.

**APPROVAL OF AGENDA**

Chairman Cokley asked for any revisions to the Agenda as contained in the Agenda Packet; however, there were none.

**Mr. Campbell moved to approve the Agenda as presented. There was a second by Ms. Creech and the Motion was carried.**

**OLD BUSINESS**

**a. SWA By-laws Amendment – Discussion of Recommendations**

Chairman Cokley indicated the purpose of the meeting was to review and receive an update on the revisions to the SWA Bylaws recommended by the County's Infrastructure and Regulation Committee and at the Public Hearing. Chairman Cokley distributed a copy of the amended SWA Bylaws which included the recommended changes from the Infrastructure and Regulation Committee dated September 29, 2014 (which is attached to and made a part of these minutes). He then asked Mrs. Brittain to proceed.

Mrs. Brittain stated the revised SWA Bylaws included the recommended changes from the Infrastructure and Regulation (I&R) Committee and editorial/non-substantial changes from County Attorney Arrigo Carotti. As a matter of reference, Mrs. Brittain indicated that the changes in red reflected those changes approved by the SWA Board at its August 18, 2014, Regular Meeting; the

blue print referenced recommendations from the I&R Committee; and, the purple print indicated recommended changes from Mr. Carotti.

Mrs. Brittain then conducted a general review of the Bylaws as revised by the I&R Committee, specifically focusing on the following substantial revisions:

- **Article VII – Board of Directors**
  - *Section 1 (b) & (c) – Membership/Composition*

Mrs. Brittain indicated discussion was held at the I&R Committee meeting regarding the Ex Officio Board Member positions. She explained these two Ex Officio positions had always been included in the Bylaws; however, they were not included in the enabling legislation and had no governing power on the Board. Ms. Brittain stated staff sought direction from the I&R Committee on these positions in that they represented a more corporate culture of the Board. She stated the consensus reached at the I&R Committee meeting was to delete the status of Ex Officio but to continue to specifically invite the County Administrator or designee and a city manager from League of Cities to attend Board meetings. Mrs. Brittain indicated this was not a change in the current practice but would bring the Bylaws into compliance with the enabling legislation.

Mrs. Brittain advised the Board that Section 1(c) pertaining to the removal of a Board Member had been updated to correspond with the County’s Code of Ordinance section on removal of directors on County Council created boards, commissions and committees. She commented that the SWA was specifically mentioned in that section of code, therefore the language was changed to mirror the verbiage in the County’s Code of Ordinances. In addition, Mrs. Brittain indicated, wording was included indicating the League of Cities would receive a courtesy notice in the event the removal concerned their nominee.

Mrs. Brittain indicated that the non-profit code sections were updated throughout the document to ensure compliance with applicable codes.

- **Article VII – Board of Directors**
  - *Section 1(c)(2) – Terms*

Mrs. Brittain advised the Board that under Paragraph (C), the number of years a Board Member had to be absent from the Board in order to be reappointed was changed from one (1) year to two (2) years in order to be consistent with the County Code of Ordinances pertaining to boards, commissions and committees created by County Council.

Mrs. Brittain indicated paragraph (D) was removed because it was inconsistent with the enabling legislation.

- **Article VII – Board of Directors**
  - *Section 3 – Special Meetings*

Mrs. Brittain stated the last sentence in the second paragraph of Section 3 had been deleted because it was inconsistent with FOIA requirements.

- **Article VII – Board of Directors**
  - *Section 8*

Mrs. Brittain indicated an additional sentence was added to the end of this section in order to clarify the relationship between Board Members and SWA employees. She indicated, with the exception of inquiries and investigations, Board Members shall deal with SWA employees solely through the Executive Director. Mrs. Brittain stated this mirrors the verbiage and procedures utilized by County Council.

- **Article XI – Amendments and Conflicts**
  - *Section 4*

Mrs. Brittain indicated this additional section was included to confirm that in the event an article, article section, or subsection of the Bylaws conflict with the provisions of a section, subsection or part of any preceding Horry County Ordinance, the conflicting provision would be deemed repealed and no longer in effect.

Mrs. Brittain commented that discussion was held with the I&R Committee concerning the dissolution of the SWA and stated the I&R Committee did not propose any changes to this section of the Bylaws.

Mrs. Brittain then generally reviewed the editorial/scrivener changes received from Mr. Carotti subsequent to the I&R Committee meeting.

Mr. Knight and Mrs. Brittain commented that the I&R Committee voted to send the revised Bylaws to the full Council for consideration at its October 7, 2014, meeting.

Mr. Gray commented that during the I&R Committee meeting the subject of the SWA Rules was discussed. However, he indicated, the SWA Rules were not included on the agenda to be discussed today. Mr. Gray asked if this meant that the Rules would not ever be discussed again. Mr. Thompson indicated it was his understanding that the Board would discuss the Rules again. Mr. Gray stated part of the discussion indicated the Rules were an extension of the Bylaws and should be considered as such. Mr. Gray asked if the Rules would not be considered as a part of the Bylaws and be discussed today. Mrs. Brittain stated the Rules were more so the SWA's version of the Roberts Rules of Order and described them as internal operating procedures for conducting a Board Meeting. Mr. Gray agreed, but said they are also designed to suppress discussion, exact discipline/censure on members, remove members from the room and other drastic means. Mr. Gray indicated that Mr. Carotti recommended a "savings clause" be added to the Rules which would state that if anything in the Rules were in conflict with County ordinances or procedures they would be null and void and could not be enforced. Mrs. Brittain commented that a savings clause has been drafted and incorporated in the Rules, similar to the one incorporated into the Bylaws. She stated the Rules would be presented again to the Board. Chairman Cokley indicated the savings clause is included in the Bylaws. Mr. Gray asked if the Rules would be discussed at this meeting. Mrs. Brittain indicated the Rules could have been discussed today if the Board amended the Agenda. Mr. Knight commented that the Rules would be on the next regular meeting agenda. Mr. Gray indicated he was fine with that if the Chairman confirmed they would be discussed at the next regular meeting. Chairman Cokley indicated they would.

Ms. Creech indicated she had the same concern voiced during the August 18, 2014, Regular Meeting when she voted in opposition to the Bylaw amendment. She commented that one of the Council Members brought up the subject of SWA debts being paid and saving the money for closure and post-closure during the I&R Committee meeting. Ms. Creech stated this was still her concern and indicated she would still be voting no, until that verbiage was put back into the Bylaws. She commented that everyone had responsibilities and that future Board and Council members will discuss this matter; however, as a current Board Member, she believed it would be good to have it stated in the Bylaws that the SWA would pay its debts and expenses [at time of dissolution]. Ms. Creech commented she could not in good conscience have anyone think that her intent would be anything different than to pay and include in the Bylaws to pay all debts/expenses and to include that any funding collected for closure and post-closure would be used for that. She remarked that she hoped this would be discussed by the full Council and stated she would hate to think that any Council Member would not want that to occur. She commented that when money is collected and not used for its specific purpose problems occur. Mrs. Creech indicated money has been collected with a specific intent and commented she would like for this to be put back into the Bylaws. Mrs. Creech stated if this is not in the Bylaws, she could not support them.

Mrs. Brittain commented that the dissolution provision was discussed at the I&R Committee meeting and she indicated there are some safeguards in the dissolution provision, which states net earnings shall not go to the benefit of Board of Directors, officers, trustees, employees, agents or other private shareholders or persons, which is taken directly from the code. Mrs. Brittain stated that additional discussion was held regarding the need to educate the Council on EPA and DHEC requirements with regard to closure and post-closure, financial assurance and the possibility of permit revocation in the event the funds are not safeguarded. She commented it may be appropriate to prepare a briefing memorandum or hold a briefing with Council and the Board to discuss financial assurance requirements that act as a public safeguard. Ms. Creech agreed but commented that over the past 25 years DHEC has not been able to protect the public's interest politically and stated that public bodies that are supposed to be safeguards and protect are something she has not seen as a possibility. She did not believe the SWA should give this responsibility to anyone and did not see a reason for this wording to be removed.

Mr. Knight commented that he understood Ms. Creech's position and stated staff has investigated ways to address her concerns. He stated staff will take a different approach and would include statements in the upcoming budget documents concerning closure and post-closure funding. Mr. Knight stated it was discussed at the I&R Committee meeting that County Council has the ability to change the enabling legislation, no matter what is included in the Bylaws.

Mr. Gray concurred with Ms. Creech's concerns, but indicated he was cognizant that there is very strong feeling among County staff that County government is in charge of everything related to the SWA. He stated the County could change any and everything the SWA does by means of resolution. Mr. Gray indicated this goes back to who is responsible and who has ultimate responsibility of solid waste management and its funding and he indicated by law, County Council is obligated with this responsibility. Mrs. Creech concurred with Mr. Gray but stated County Council could not change her opinion or intent. Chairman Cokley also concurred and stated regardless to how the Bylaws are written, County Council has the ability to do whatever they choose to do. Mr. Gray called for the question.

**Mr. Gray moved to adopt the Bylaws as they have been presented at the meeting, with a condition. Mr. Campbell seconded the Motion.**

Mr. Gray commented that he would vote yes to the adoption of the Bylaws with the condition that the Rules be a part of the Bylaws. He indicated he personally feels the Rules should be a part of the Bylaws and was given assurance from the Executive Director and the Chairman that the Rules would be discussed at the next meeting. Mr. Gray stated his vote was subject to change, but indicated he voted yes conditionally and made the motion conditionally. Mr. Campbell asked for clarification as to whether Mr. Gray was voting yes on the adoption of the Bylaws. Chairman Cokley asked Mr. Gray if he was voting yes on the adoption of the Bylaws. Mr. Gray indicated he voted as clearly as he knew how, which was a conditional yes. Chairman Cokley indicated he was seeking clarification and stated the Bylaws would go to County Council for consideration before the Board met again. Mr. Gray said if he was being boxed into a corner for a vote, his vote would be no, for the reasons he mentioned. Mr. Gray indicated he was fine with all of the work done to date on the Bylaws and commented they were good. Mr. Gray stated he had another issue, which was not being discussed today. Mr. Gray commented that if he was being forced to vote yes or no, his vote would be no. Mrs. Brittain stated she was unsure if Mr. Gray could put the condition on his vote; however, he could certainly state his disagreement on the record. Mr. Gray said in the final analysis everyone was aware of what would happen, in that Mr. Schwartzkopf moved the matter along yesterday and it would be approved at the next Council Meeting. Mr. Gray said he voted the best way he knew. **Mr. Gray withdrew his initial motion.**

**Mr. Campbell moved to adopt the Bylaws as presented and to forward them to County Council for their consideration. There was a second by Mr. Thompson.** Mr. Gray again stated he has no problem with the Bylaws, but would be voting no for reasons similar to Ms. Creech. He stated he believed the Rules should be a part of the Bylaws. **Mr. Campbell and Mr. Thompson voted in favor of the Motion with Mr. Gray and Ms. Creech voting in opposition. The Motion was carried with Chairman Cokley breaking the tied vote by voting in favor of the Motion.**

Chairman Cokley then distributed a copy of the revised Rules for discussion and consideration at the October 28, 2014, Board Meeting. Mrs. Brittain indicated this copy included the savings clause mentioned earlier in the meeting.

Chairman Cokley indicated there was a need to set up a Public Hearing to allow the public the opportunity to comment on the amended and restated SWA Rules. After general discussion, the Public Hearing was scheduled for October 23, 2014, at 2:00PM.

#### **MOTION TO ADJOURN**

There being no further business to come before the Board, **Mr. Thompson moved, seconded by Ms. Creech to adjourn the meeting. The Motion was carried** and the Special Meeting was adjourned at 10:15A.M.

Minutes approved on October 28, 2014.

HORRY COUNTY SOLID WASTE AUTHORITY, INC.

BY: \_\_\_\_\_(L. S.)  
James H. Cokley, Chairman

ATTEST:

\_\_\_\_\_(L. S.)  
J. Michael Campbell, Secretary

\_\_\_\_\_(L. S.)  
Pam J. Creech

\_\_\_\_\_(L. S.)  
Dan P. Gray

\_\_\_\_\_(L. S.)  
W. Norfleet Jones

\_\_\_\_\_(L. S.)  
John R. Long, II

\_\_\_\_\_(L. S.)  
M. Lance Thompson