Bethlehem Transfer Station Committee

Bethlehem, NH

Minutes of the Meeting

January 27, 2021

Note: Virtual via “Zoom”

Committee members participating Nancy Strand (host), Barry Zitser, Andrea Bryant, Chris Jensen, Chris McGrath, Katherine Darges. Guest: Margaret Gale

Before the meeting started, Chris McGrath mentioned a business in Groveton that takes telescope bags and might be a good place to recycle them. Nancy Strand will put this information in a future issue of “Just Be Greener”, the TSC newsletter.

Chris M also brought to the attention of the Transfer Station Committee (TSC) that there are a lot of young trees growing up at the Route 116 site of the former transfer station. It will be less expensive to clear them this spring before the trees get much bigger. He then had to leave the meeting.

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This special meeting was called to order at 6:33 pm to discuss recent developments that may impact the Bethlehem Transfer Station.

*Background: Conservation Law Foundation (CLF) has filed an action in state court seeking to prevent North Country Environmental Services (NCES) from beginning landfilling operations in the proposed Stage IV of its Bethlehem Landfill. NCES intends to begin landfilling operations this spring, but the permit for this stage is subject to*[*an appeal filed by CLF*](https://www.clf.org/newsroom/clf-appeals-permit-allowing-bethlehem-landfill-expansion/)*in October. This action would ensure the facility cannot operate until the permit appeal has been resolved.*

Chris Jensen explained that, without use of the Stages VI expansion, which is near completion now, the Bethlehem landfill capacity will be reached in April 2021. If the CLF appeal is successful in getting a temporary injunction to halt operations until the appeal has been adjudicated, then Bethlehem may have to make changes to its trash removal services at that time (April 2021).

Chris J. said that, as a safety net, the Town should be prepared to use the old temporary transfer station on Route 116 or the Town garage. We should begin the process for getting a “Permit by Notification” and prepare a request-for-proposal (RFP) for pay-as-you-throw (PAYT) trash bags and anything else we may need to start non-Casella trash removal.

Andrea Bryant asked if Bethlehem might use the Littleton Transfer Station for its municipal solid waste (MSW) and recyclables, etc. Chris J said that this is a good idea but wonders if Littleton waste goes to NCES in Bethlehem. Littleton may be in the same situation as Bethlehem. Barry explained that Littleton is considered a regional facility. They might go to Mt. Carberry.

Barry Zitser thinks that it is a good idea to be prepared for all eventualities. The CLF would have to prove that there would be irreparable harm and that their case now before the Waste Management Council (WMC) would likely prevail. Because of this, it is difficult to get a temporary injunction. Depending upon the ruling of the WMC either party may file an appeal, which would move the case to the New Hampshire Supreme Court. Based on previous rulings on this matter, the judicial process may take more than a year.

Barry said that he read 2012 agreement between Casella Waste Systems and the Town of Bethlehem, and he believes that NCES (owned by Casella) may be obligated to continue providing curbside trash and recyclables removal services if preliminary injunctive relief is granted, even if it means that they have to use another landfill. He suggested that the Select Board get a legal opinion on this. If the Town’s counsel agrees that Barry’s reading of the agreement is correct, he suggests that the Selectmen consider contacting NCES to tell them our position and ask if they intend is to continue the collection. If they say “yes” then it moves any further options for trash service at least for a period of time because the last time the CLF took a case like this to the WMC, the case went to the NH Supreme Court where it is still pending more than a year later. He thinks it may take months, if not a year, for NCES expansion case to be decided by the WMC, and, if there is an appeal to the NH Court, another year for final adjudication.

Barry referred to the Bethlehem Solid Waste Contingency plan that was developed by the Transfer Station Committee and submitted to the Bethlehem Select Board. He reviewed the suggestions made there for a transfer station. Based on that he suggests that we get requests for proposals (RFPs) for:

* Third party providing a truck and a driver to haul from a particular location;
* Neighboring transfer station
  + For regular waste, recyclables, special items;
  + For recyclables only.

Depending on the Town’s bidding requirements, the Select Board may want to put notices in local and regional newspapers soliciting bids to make sure that we are inclusive in reaching anyone who might be interested in bidding.

Littleton is a regional station and has the capacity for waste and recyclables, plus pay-as-you-throw bags that Bethlehem residents could purchase.

Nancy Strand inquired about whether the TSC should research bags or if it is the responsibility of the Select Board. The consensus was that the TSC should provide the information to the Select Board. Nancy said that she would do this.

Chris said that the TSC does not want our planning to be seen as an admission that we do not expect NCES to fulfill its obligation to continue to provide services to the Town. This is purely gathering more information for a contingency plan in case there may be a dispute over what the language of the 2012 and 2018 agreements mean.

On a question by Andrea, Barry said that the 2018 agreement with NCES confirmed that the terms of the 2012 agreement is still in effect. This is not a guarantee that they will comply, but they may be more likely since the injunction is a “temporary” one rather than a “permanent” one, they may be more likely to comply. The injunction would stay in place until the case is finally settled. It may be weeks or even months before the injunction is decided.

Chris pointed out that we do not know how much this contingency plan is likely to cost the town such as how much a contractor might want and how much bags would cost vs. revenue received. He assumes that those costs would come from the Capital Reserve Fund.

Barry commented that the bags probably will cost us, at most, a few thousand dollars. Rough estimates for other options are:

* Littleton Transfer Station for receiving waste and recycling around $10.00 per capita, or $25,000 per year plus the purchase of their bags;
* While a contract with Mt. Carberry would have to be negotiated, Barry recalled that the last time this landfill was used the price was in the $50s per ton. Added to this would be the cost of hiring a hauling service to pick up, drive, and deliver our bags (cost unknown at this time), and the cost of purchasing bags;
* Using services from a neighboring town such as Franconia or Whitefield (cost unknown at this time) with or without the purchase of bags. Delivering our MSW and recyclables would be less convenient for most of the Bethlehem residents because of the distance involved. Approximately 2/3 of the residents live within a mile of the Town Garage.

Barry reported that Brett’s office at the Town garage has a bin with records of Normandeau’s hauling of Bethlehem trash to Mt. Carberry. They picked up bags twice a week.

Andrea asked if we need to get bids on bags. Chris said that it probably depends on the dollar amount of the purchase, and he would have to check on how much that is.

Margaret Gale suggested that we contact the Northeast Recovery Resource Association (NRRA) for leads on where we might be able to purchase bags. Barry agreed with this and added that the TSC will also inquire about recycling and all other resources the NRRA might be able to recommend. We should send them everything for RFPs.

Andrea asked if Casella would have to find a place to dump our trash, and if we should contact Mount Carberry about it. Chris J said that we should do it, since we may be able to get a “municipality” discount. Also, if NCES closes, will Casella have to figure out what to do with trash from all the other customers for which they provide services? Barry said that they may have to, but we don’t know what the other contracts are and when they end.

Andrea asked if Normandeau would pick up our recyclables and if we would have to rent bins and presort items. Chris J. doesn’t know where we would store those until pickup. He will have to talk with Brett at the Town Garage to see if there is any space there. Andrea remembered putting recyclables in an open truck for removal. Barry said that cardboard has been increasing in price, and that currently aluminum containers have the most value.

Bulky items such as refrigerators will have separate charges, and brush and yard waste do not go to the transfer station. Hazardous materials would be collected twice a year and may not be put into the dump or in bags.

Barry explained that, the last time we had a transfer station, we paid the cost of trash removal through the sale of trash bags, bringing in approximately $50,000 to $60,000 a year. The Town subsidized that when the expenses were ahead of bag sales.

We should have enough money in the Transfer Station reserve fund to use another transfer station or to purchase a supply of bags to sell. The reserve fund currently has $130,000 in it with another $20,000 on the Warrant for 2021.

Chris J noted that we are planning a temporary solution. It won’t be all things for all people. Right now, we just need to have the essentials covered.

Barry made a motion that the TSC:

* Recommend expeditiously seeking an opinion from the Bethlehem town counsel about whether NCES is still obligated to continue to provide curbside service to Bethlehem if a temporary injunction is granted;
* Recommend that the Select Board, without waiving our legal position, allow us to start to prepare a “permit by notification” for a temporary transfer station at the Town Garage;
* Prepare RFPs for
  + Third party contractors -- truck and a driver to haul from a particular location like what was done from 2009-2011;
  + Neighboring town transfer stations for receipt of
    - Regular waste, recyclables, special items;
    - Recyclables only;
  + Determine the dollar limit threshold for not needing to put out to bid PAYT trash bags; and, if necessary, prepare RFPs for bags.

Chris J said that we can refine bids as we go along. He will bring these issues up with the Select Board at their next meeting to ask them if we can begin working on these issues.

Barry says that he did not include the cost of obtaining bins in his motion. Andrea suggested that we wait until we have a contractor, since they will have to haul the bins.

Chris J said that, at this time, on the slim possibility that NCES will stop providing services, we cannot be all things to all people. This will be a temporary station that cannot take large items or brush. We will figure that out when we develop the comprehensive solution to trash removal for the Town.

Since Littleton is a regional transfer station, we probably can direct our people to take brush there to their burn pit.

Andrea wondered if we would have to use single-source recycling temporarily for logistical reasons. Would we be able to get bins from Normandeau? She remembered a large, open trailer in which people put sorted recyclables, and Normandeau took them. Barry said that he knows of no facility in New Hampshire that processes single-stream recycling. They agreed that single-source is very wasteful.

Nancy suggested that we wait for the legal opinion regarding the 2012 contract with NCES before we start thinking about how to get bins if we need them. The highest priority for the Select Board is to get a legal opinion from the Town counsel on whether NCES will still be obligated to provide our trash removal service. Barry added that, if the Select Board and counsel agree that NCES still must provide service but they do not, we need to preserve our rights if Bethlehem pays for its own service for a time and we subsequently learn that NCES was obligated.

Barry said that there also appears to be a mediation provision in the 2012 agreement. This usually is a fairly quick process. We will have to spend a little money to get the opinion from our counsel, and a bit more if we have to go to mediation.

Barry’s motion (on the floor) was seconded and approved unanimously. Chris Jensen did not vote because he is the Select Board’s liaison, not a member of the TSC.

Barry reminded everyone to keep an ear out for further movement on the injunction, the CLF, or other activities on this whole subject.

Barry will contact Julie Seely to ask if she has any information on whether the WMC met on January 21, 2021 as scheduled.

The meeting was adjourned at 7:29 pm.