

TOWN OF CLARKSTOWN
PUBLIC HEARING

283

Town Hall

1/16/90

8:10 P.M.

Present: Supervisor Holbrook
Council Members Kunis, Maloney, Mandia and Smith
Murray N. Jacobson, Town Attorney
Patricia Sheridan, Town Clerk

RE: TRANSFER STATION

On motion of Councilwoman Smith, seconded by Councilman Kunis and unanimously adopted, the Public Hearing was declared open. Town Clerk read the notice of Public Hearing and testified as to proper posting and publication.

Supervisor Holbrook explained the purpose of the meeting was the proposed transfer station for the Town of Clarkstown and stated this was pursuant to Section 120-w of the General Municipal Law.

Town Attorney said pursuant to Section 120-w a municipality may make an award to any responsible proposer. If the proposed awardee does not provide the lowest net cost (and in this case they do not) there must be a public hearing. After the public hearing they must adopt a resolution which includes particular findings relevant to factors evaluated pursuant to subparagraph 3 indicating the municipality's requirements are met by such award and that such award is in the public interest. That is the purpose of the hearing tonight. The proposed award is to Clarkstown Recycling Center, Inc. However, they did not propose the lowest net cost and therefore, we are holding a public hearing this evening.

Supervisor said it is the intention of the Town to have Clarkstown Recycling Center, Inc. make a brief presentation and then open it up to questions from the Board as well as from the public.

Appearance: Donald S. Tracy, Esq.
Tracy, Bertolino & Edwards
Little Tor Road
New City, New York 10956

Mr. Tracy said he has had the pleasure of representing this corporation and in fact forming this corporation in Clarkstown in 1976. Joseph Miele, a principal of Clarkstown Recycling has been his client for over twenty years. During that period of time he has been engaged in the garbage industry in the Towns of Clarkstown and Orangetown, operating ten trucks, employing in his organization thirty-five men and making, by rough estimate this afternoon, over 109,000 garbage pick-ups over this period of time. Joseph Miele is joined in Clarkstown Recycling Center, Inc. by Richard Pisacane. He stated that Mr. Pisacane would speak for himself as a partner and officer in Clarkstown Recycling and as an individual who has been in the garbage industry for some twenty-two years. Pursuant to Section 120-w, General Municipal Law, Clarkstown issued RFP's in the month of October last year. Pursuant to those RFP's there was responses, one of which was Clarkstown Recycling. After two interviews, the Town of Clarkstown on December 29, 1989 voted to award the contract to Clarkstown Recycling Center, Inc., pursuant to 120-w, General Municipal Law. Because one (1) bidder out of ten responsive bidders was lower than Clarkstown Recycling Center, Inc., this public hearing is mandated.

Appearance: Mr. Richard Pisacane

Mr. Pisacane stated that he is a stockholder in Clarkstown Recycling Center, Inc. and is a consultant and an attorney at law practicing in the the states of New Jersey and New York. He has been involved in the solid waste industry for twenty-two years in major projects in New Jersey, Michigan, and Connecticut concerning their solid waste problems. He said he has been involved in the implementation of solid waste plants as

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well as the building of transfer stations in New Jersey, specifically in Passaic County. He said he has also been involved in advisement in Morris County also concerning their solid waste problems.

At this point Mr. Pisacane referred to a map which indicated where the solid waste from Clarkstown will go. There was discussion on this map and detailed explanation by Mr. Pisacane. He said the primary landfill where they will be taking the open top solid waste will be at the Valley Landfill in Penn Township which has reserved for us 600 tons per day. Baled waste from the station will go to the Green County Landfill in Springfield, Illinois which has reserved a capacity for us of 1,000 tons although we don't need 1,000 tons. He stated that the other two main alternate landfills indicated on the map are located in Virginia which has reserved for us up to 1,000 tons per day and in Ohio which has reserved for us 200 tons of available space.

Mr. Pisacane said we also have seven other alternate landfills available as necessary. He stated that they will build a state of the arts transfer station which will be both for baling and for open top loading. The reason why we have alternate methods is it has been our experience in other transfer stations that balers sometimes break down and at no time will there be any solid waste left on the floor of the station in Clarkstown. It will always be moved out by these two alternate methods.

Mr. Pisacane then introduced their engineer, Mr. Alan Garfinkel, to briefly summarize the mechanics of the construction and operation of the station.

Appearance: Mr. Alan Garfinkel, Engineer

Mr. Garfinkel showed plans of the building as they currently conceive it. He said his client intends to build a station which is basically 150 feet in length by 100 feet in depth and will contain an 80 foot tipping floor and a 20 foot trailer bay for loading. Mr. Garfinkel stated that it is their plan at this point to simply drop the solid waste on the floor of the transfer station on an 80 foot by 120 foot wide tipping floor. It will be rehandled with a front loader bucket assembly transferred either to the charging hopper of the baler or the tops of the open topped trailers. The trailers will then be closed with tarps and weighed in either the trailer bay or at the existing scale assembly that sits in the yard at present.

Mr. Garfinkel then showed the entry of both the trucking, that will deposit the waste on the floor of the station, and the trailer access and that will coincide in the building proper wherein the trailers will run through the trailer bay, come back out again, be reweighed on the trailer scale initially - we will ultimately have our own scales in the trailer bays so that we know the loads we are putting out on the road system are within the state limits. The trucking itself will then be exiting back out through the same entry point on Route 303. He said Mr. Miele intends to screen the station from view. He believes that the basic presentation of the building as you have seen earlier is certainly aesthetically pleasing but he intends to screen each and every operation from public view on Route 303.

Mr. Pisacane then stated that with regard to the transportation network we have a trucking fleet dedicated specifically to Clarkstown. He said you should also note that the station is not only being built to handle just 500 tons a day. If you desire, for whatever reason, to expand your use, the station has the ability to take double or triple that amount of garbage. We could take 1500 tons a day at that station without any problem for both baled and open topped loading.

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Mr. Tracy stated that at this time they have completed their presentation and ask that their proposal be incorporated therein and request that the meeting be turned over to the public.

Supervisor asked if any Board members had any questions?

Councilman Kunis said in reading the proposal it says that Clarkstown Recycling has contracted with multiple landfills. He asked if they had the contracts and were they part of the proposal? Mr. Pisacane said they have contracts which will be signed when we have the contract with Clarkstown. Councilman Kunis said so they are not signed yet? Mr. Pisacane said they are contingent upon Clarkstown's agreement with them. Councilman Kunis said are they from the three landfills which you indicated? Mr. Pisacane affirmed that. Mr. Pisacane said that is dedicated space.

Supervisor asked if there was anyone from the public wishing to comment?

Appearance: Mr. Bob Cioffi
Nanuet, New York

Mr. Cioffi asked why wasn't the lowest bid accepted and what was the dollar amount of that bid? He discussed at length the tonnage and fees therefor. He asked why are we shipping our waste out of state instead of using the DEC approved New York State privately owned dump in Orange County? He asked why we would not dump at the Alturi Landfill, for instance, which has a life expectancy at least as long as the contract that we are proposing here? He said it was his understanding that some of the proposals that were rejected included the use of that landfill which would mean that we would not be at the mercy of receiving states for our garbage.

Mr. Pisacane said with regard to the landfills we have commitments and contracts with them concerning the dumping of the solid waste and in light of the Supreme Court cases dealing with this subject they cannot be negated and therefore that is not a problem at all. Mr. Cioffi asked if they could raise the prices? Mr. Pisacane said the price was fixed.

Appearance: Mr. John Lodico
2 Birch Lane
New City, New York

Mr. Lodico asked the Town Board to reserve decision on this particular situation tonight. He also requested that the Board accept the Citizen's Advisory Report so as to safeguard the interests of the taxpayers of the Town of Clarkstown. Mr. Lodico said the Advisory Board has prepared 15 or 16 commandments to protect the taxpayers of this Town who should be safeguarded. He went into detail with what they felt should be considered.

Mr. Lodico noted that according to the paper last night, our sister town, who has enjoyed the benefits of our landfill for many years, on a cooperative effort, has stated (by an Orangetown representative of the industry) "that we can always withdraw." Mr. Lodico said no one should be allowed to withdraw.

Mr. Lodico spoke about possible conflict of interest in view of the fact that the potential vendor is also a collector in the industry as well. Mr. Lodico presented to each Board member Supplementary Complaint Reports lodged with the Clarkstown Police Department with regard to the potential vendor. He suggested that the Town Board reserve decision and that they immediately correspond with the Federal Environmental Protection Agency and the Attorneys General in the five various states that have been mentioned in this proposal as to whether or not, in fact, they are prepared to take out of state garbage from another state and for what period of time. He said whoever the successful bidder is they should post

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a bond guaranteeing this five year contract and make provisions for alternatives.

Appearance: Mr. John Cuff
Pheasant Drive
West Nyack, New York

Mr. Cuff felt that if we are going to make this transfer station a permanent fixture in West Nyack shouldn't the recycling center be in the same location? Supervisor said we were advised to proceed with this permit at this time only for the transfer station. It is a logical question and maybe at some other time, if we are successful in getting the permit, we will be able to do that.

Mr. Cuff was concerned that we would go out looking for more and more clients to run this thing at what is called high capacity. He did not want to see in West Nyack a continual caravan of garbage trucks coming in from all over the place just to bolster the Town treasury.

He hoped we would be able to reach agreement with the Town of Orangetown. He again urged please do not allow West Nyack to become the garbage capitol of southeastern New York, Rockland County or anything else.

Appearance: Mr. Orin Goetz
New City, New York

Mr. Goetz said we have a combination problem and the state should get involved and maybe the Town should progressively contact our state legislators. He said this is a statewide problem and we have to attack it on a statewide basis. Mr. Goetz mentioned County involvement. Supervisor Holbrook said the Town of Clarkstown has already comitted to being a participant in a county overall plan for solid waste. He said he would envision that if we are successful with a transfer station permit it would ultimately become part of the county plan. In any event the Town has committed to that. He said he sits on the Solid Waste Committee and we are cooperating and there should be no problem in that regard.

Mr. Goetz said his concern is how well does the corporation perform and how reliable is it? Can it be trusted? Do we really have the protection? If not, do we have somebody as a backup who could step right in? Do we have enough bonding in this so that the Town is protected if this company falls apart and leaves us high and dry. He said he hopes that the Town Board will provide adequate protection to the Town residents so that if this company goes defunct or doesn't perform there will be security.

Mr. Goetz said that Con Rail was looking to become involved in freight hauling of garbage. He said the trucking industry has a certain amount of perils in hauling garbage. One of them is that sometimes the trucks that are used to haul food are used to haul garbage the other way. He said that is a vital concern and if we are dealing with this operation, possibly the idea of us having a facility that can also ship this by rail and move it out to the midwest or something like that would be a viable thing. He mentioned the West Shore Railroad hauling away our garbage and getting the garbage trucks off Route 303 thereby saving a few residents' lives. He hoped the Town has looked into the issue of having the railroad do it. We would then have an option in the planning of this.

Appearance: Mr. Bruce Broadley
West Nyack, New York

Mr. Broadley said he is concerned about Route 303 and went into detail about his concerns. He stated that when the

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Pyramid Mall is built with essentially no changes to the roads other than ingress and egress out of their site you will be at least doubling the number of trucks because you will be bringing the garbage in and then taking it out. He discussed traffic problems which he felt lie ahead.

Mr. Broadley discussed the structure of the transfer station. He said he was also concerned about the minimums we have to meet and the increase in fees if we do not meet those minimums, especially if those minimums are because we are depending on another town. He felt we must be very careful that they really do have the capacity in these landfills and that it is not a mirage. Many times with these interstate problems you get the Federal authorities involved. You get the EPA involved. It could be a problem.

Mr. Broadley stated that it is the opinion of many people that one of the principals involved in this corporation does not have a good reputation and why would we want to do business with them? Mr. Broadley said he is very concerned about the back hauling aspect where they would haul garbage one way and food the other. He said perhaps there should be something written in the contract that consumables cannot be hauled back in the trucks, the reason for this simply being potential liability. If something happens and this little corporation disappears and goes bankrupt the liability will come back to the Town and we stand a chance of being in trouble. With a little bit of extra work right now we can save a lot of problems in the future.

Appearance: Mr. Joseph Pantano
Little Tor Road
New City, New York

Mr. Pantano said with regard to the contractor we are talking about this evening what is the amount that they must have before a penalty will ensue? Supervisor said the minimum is 120,000 tons. Mr. Pantano said if we don't meet that what is the charge for every ton - \$30.00? Mr. Bollman said it would be basically their fixed cost - their operating cost - to have people there and if you brought nothing to them they would still have to pay them. Mr. Pantano asked if the other individuals who approached the Town had a similar provision. Councilman Maloney said yes. Mr. Pantano asked with the same amount? Supervisor said it varied but most of them did have a penalty. Mr. Pantano said he would like to hear the varied because it could be a big difference in what one company says for 120,000 tons and maybe another company for 90,000 or 100,000 tons.

Mr. Bollman said it does vary. There was one company that wanted us to go to an incinerator. That had a lock-in space. If we didn't give the amount to the incinerator the price was higher. Their alternate went to a landfill which was higher. The more we put into the structure the greater the penalty. There were some people that only charged \$5.00 or \$6.00 per ton to build the structure. It might be less but I and some of the Board Members didn't feel that we were getting a structure that was going to last us not only five years but a longer time. Basically, they all followed the same general formula: Fixed cost plus a portion of their operating costs to people that they had to have there.

Mr. Pantano asked if any of the other companies had substantially less guaranty than the 120,000? Councilman Maloney and Councilman Mandia said no, it was more. Mr. Bollman said there was one company that had a 60,000 ton guaranty to go to an incinerator and the other 60,000 would go to a landfill at \$90+ was his recollection. Mr. Pantano said then what you are saying is that all of the other companies with the exception of this one were roughly the 120,000 guaranty? Mr. Bollman said we sent out the RFP that way - that they would have to guaranty 120,000. Supervisor said based on the tonnage that we get from the towns. Mr. Pantano

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said you feel with Clarkstown's alone that we could guarantee this? Mr. Bollman said no, it was always considered with a Clarkstown and Orangetown joint venture of 120,000. Mr. Pantano asked how much could Clarkstown safely guarantee? Mr. Bollman said we were using 70/50 and that's including five years down the road after we do intensive recycling. Right now between the two towns we brought in about 160,000 tons last year. Mr. Pantano said but if we are very successful? Mr. Bollman said he is leaving 40,000 tons at that end considering both towns are now recycling glass, cans, and paper. Mr. Pantano said do you feel that Orangetown will definitely come into this? Supervisor said in his conversations with Town Board Members and their consultants there is the indication that they will agree. Mr. Pantano asked what will happen if they don't. Supervisor said then we will have to look someplace else but he doesn't envision that happening.

Supervisor said there will be a performance bond by the company doing the work but we feel based on the proposal -- Mr. Pantano said then there is no bond that covers us for a problem if Orangetown -- Supervisor said that has to be put into an agreement with the Town of Orangetown and Clarkstown and that is forthcoming. Mr. Pantano said but that has yet to be done. He said he did not understand why this Town Board is going ahead without a vote of the Town of Orangetown. Supervisor said we haven't gone ahead in terms of voting to approve a contract yet. What we are doing right now is having this public hearing to get input but we are operating under certain deadlines and we have to make progress. Mr. Pantano asked if they anticipated a vote this evening? Supervisor said he thinks the intention of the Town Board is to reserve decision this evening and make a decision on January 23rd, the next Town Board Meeting.

Mr. Pantano asked what happens if Orangetown hasn't made their commitment as of that time. Supervisor said then we would have to evaluate that at that time but he thinks they will. He said other individuals are aware of what is going on here and they may hold us up for whatever conditions or price they may want to. We may have nothing to say about it because we must have Orangetown but nobody can say what Orangetown is going to do. Supervisor said we are just going to have to wait and see but the spectre of not having a place to dispose of garbage will help them along in that decision.

Mr. Pantano said the bond is another consideration to cover this Town for liability because he did not want to see another large tax increase due to the fact that we trusted somebody else. Trust is fine but get the signature first.

Mr. Cioffi asked why the lowest bid wasn't accepted and why we are rushing into this agreement when there is a state approved dump that you could go to in the meantime? Supervisor said we are not making that decision tonight. We are not rushing into it. We have considered all the other proposals. Without divulging the name of the firm, it was our feeling that the three or four firms that we narrowed it down to were probably the best capable of providing us with the services that we needed. That particular firm was not one of those. So what we first did was narrow it down to four and then interview those and then make a decision based from that pool. After this public hearing what we are going to do is reserve decision and make a final decision next Tuesday night.

Mr. Cioffi asked did any of the other proposals keep the waste in New York State? Supervisor said there was one other proposal that wanted to take it to their own landfill, yes. He said he thought that was the landfill Mr. Cioffi was referring to and Mr. Cioffi said yes it was. Mr. Cioffi said he was curious as to why we would want to export our problems? He said what he is really most concerned about after all the discussion heard here tonight is the very simple fact that we are opening ourselves up to a lot of

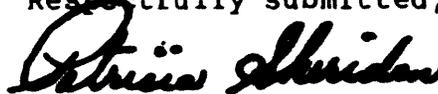
problems in the '90s exporting our garbage. We can handle our own problems, even for the short term until we can come up with a better method. It is in our own best interest. We have enough other problems without worrying about the whims or others. Supervisor said he thought that Mr. Cioffi's point is well taken and is something that not only our Town has to deal with but communities across New York State.

Councilman Kunis asked as a matter of record would the applicant furnish the Town with copies of the unsigned contracts that you have from the landfills that you are going to be working with?

Mr. Tracy said the commitments from those landfills are in the proposal. Councilman Kunis said the commitments are there but he is talking about the contracts and he wants to see copies of the contracts. Mr. Tracy said obviously the contracts will be delivered upon the award. Councilman Kunis said but the gentleman said he has the contracts. Mr. Tracy said they have binding letters of intent in their proposal.

On motion of Councilman Maloney, seconded by Councilwoman Smith and unanimously adopted the Public Hearing was declared closed, DECISION RESERVED, time: 8:45 P.M.

Respectfully submitted,



PATRICIA SHERIDAN,
Town Clerk