



Solid Waste Management Department

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BOARD OF COUNTY COMMISSIONERS

Inter-Office Memo

Date: January 6, 2021

To: Board of County Commissioners

Through: Frank Abbate, County Manager *[Signature]*

Through: John Denninghoff, Assistant County Manager
Development & Environmental Services Group *[Signature]*

From: Euripides Rodriguez, C.I.A., Director *[Signature]*

Subject: Florida Recyclers Melbourne Landfill Update

The following information is provided consistent with Board direction concerning the potential purchase of the Florida Recyclers Melbourne Landfill which is located adjacent to the County's Class III Sarno Road Landfill. The potential purchase has been suggested as a possible strategy to extend the functional life of the County's Class III Sarno Road Landfill. The information is intended to provide contextual background information and to provide the latest technical and other pertinent information for consideration by the Board of County Commissioners.

The County recently updated our Financial Responsibility Closure & Long-Term Care Estimates as of August 2020. This report, prepared by Neel Schaefer, Inc., estimates the Sarno Road Landfill will run out of capacity in January 2023. The Sarno Road Landfill receives Class III materials from the south area of the county as well as yard waste, tires and metals and is now permitted to be at the maximum height possible. This maximum height can be achieved because on August 13, 2019, the City of Melbourne granted final approval of the County's requested height variance for the Sarno Road Landfill to reach a height of 104 feet elevation over sea level.

On April 9, 2019, the Board of County Commissioners directed staff to delay signing the US Army Corp Environmental Resource Permit for the US 192 site and bring it back to the Board. Staff brought it forward on July 9, 2019, on which date after some discussion the Board tabled the matter pending receipt of additional information to facilitate deciding on alternatives to replacing the County's Sarno Road Landfill. The additional information directed by the Board included completing an appraisal report and obtain an Environmental Assessment Report for the Florida Recyclers Melbourne Landfill. The Board also directed staff to prepare a report on the possibility of purchasing the Florida Recyclers Melbourne Landfill.

Staff brought the item back to the Board for further consideration on October 22, 2019 at which time there was also a presentation by Florida Recyclers offering to sell their Melbourne facility to the County. As a result of this meeting Staff was directed to address remaining concerns associated with the mulching and cost issues regarding Florida Recyclers and also bring back more information regarding the environmental study as well as a more rigorous analysis of the

option to purchase the private landfill including more information regarding the life expectancy of the County's existing landfill on Sarno Road.

Consistent with Board direction on October 22, 2019, staff has updated the information provided to the Board on July 9, 2019, received the environmental study for the Florida Recyclers site, updated the escrow analysis with the most current information and obtained a second appraisal regarding the Florida Recyclers property. Staff has also updated the life expectancy of the Sarno Road Landfill to facilitate the Board's decision making in this regard. The updated and new information follows.

Appraisals:

Last year Florida Recyclers gave the County an "Investment Value Consulting Report"¹ prepared by Compass Real Estate Consulting, Inc., Shawn E. Wilson, MAI regarding their landfill. Investment value is defined by the Dictionary of Real Estate Appraisal, Sixth Edition, 2015, page 121 as "the value of the property to a particular investor or class of investors based on the investor's specific requirements. Investment value may be different from market value because it depends on a set of investment criteria that are not necessarily typical of the market." The Investment value set by this report is \$8,416,000. As a note on page 12 of the report, Ms. Wilson states "Note that the market value of the landfill and business which currently operate on the site is not part of this analysis."

Staff requested an independent appraisal with the firm of Clayton, Roper & Marshall, Inc.² for the Florida Recyclers property. This appraisal was completed on August 26, 2019 and appraised the property at \$5,400,000 with a forty-foot height elevation limit (City of Melbourne height restriction).

A second appraisal was requested and after several firms declined the job, staff was able to contract with Pinel & Carpenter, Inc.³ in March, 2020. The appraisal was completed on October 9, 2020 for a valuation of \$2,700,000 with a forty-foot height elevation limit (City of Melbourne height restriction).

Based on the above valuations and appraisals the value range is quite significant with the average of Brevard County funded appraisals being \$4,050,000. How the privately held trust/escrow fund is handled in any transaction is a fundamental factor affecting the Florida Recyclers Landfill value. Additional information is needed regarding the trust/escrow fund and other factors that will affect the actual cash outlay before the County could begin utilizing the private Landfill if the County were to pursue purchasing the Florida Recyclers property. Information regarding these factors is included below.

Closure Trust/Escrow Fund:

The Financial Assurance or escrow impact is discussed in detail in the attached report. The Florida Recyclers Landfill is required to have a Closure Trust Fund which is intended to provide assurance that funds will be available to properly close the landfill at its end of life. This fund is

¹ The Investment Value Report dated May 25, 2018 is attached for reference.

² The appraisal from Clayton Roper & Marshall dated November 18, 2019 is attached for reference.

³ The appraisal from Pinel & Carpenter, Inc. dated October 9, 2020 is attached for reference.

similar in nature, but not in the method of calculating the yearly deposit, to the Escrow account used by the County (as a governmental agency) to close the Sarno Landfill at its end of life. Florida Recyclers makes a \$100,000 payment to the trust fund and if their income exceeds \$1,250,000 they are required to deposit 4% of the income exceeding \$1,250,000. This method of calculation, approved in an FDEP consent order is a negotiated settlement with FDEP and bears no relationship to the standard formula as required in the FDEP regulation for this purpose. Thereby in comparison to the calculation required to be followed by the County, the current private Closure Trust Fund is under funded by approximately \$2,094,081 based on the acreage of the landfill and the typical per acres cost of closure. If the County were to purchase the private landfill the regulatory expectation is that the County would establish a properly funded Escrow Account. As such, there is a financial impact to the County since we would have to make a deposit to compensate for the shortfall (approximately \$2,094,081) if the private Trust Fund is included in the land transfer to the County. However, the required deposit amount would increase to \$3,011,654 if Florida Recyclers were to maintain possession of the existing trust fund as their proposed selling price is structured. These amounts are approximations since the capacity of a landfill changes every day in any operating landfill.

There is another major cost that could affect the monetary outlay in this potential transaction. The Florida Recyclers site contains a high quantity of mulch. This mulch holds no economic value to the Solid Waste System. The cost of removing the mulch (loading, hauling and current disposal) from the site is estimated to be \$2,196,700, subject to final survey of the quantity of mulch. Additionally, it is currently unknown how much time and cost (additional hauling and disposal) will be involved with finding a final resting place for the mulch.

Environmental Conditions

On January 29, 2020 staff received the Phase I and Phase II Environmental Site Assessment Report from PPM Consultants. These reports revealed no evidence of recognized environmental conditions in connection with the property except for the following:

- Groundwater Cleanup Target Level (GCTL) exceedances in site monitoring wells. Per the most recent Florida Department of Environmental Protection review of the groundwater data, no regulatory action was requested to address the GCTL exceedances, only continued groundwater monitoring.
- Two of the three used-oil stained ground areas.
- The current diesel fueling area (aboveground storage tank at north property line and historic fueling and vehicle maintenance area).

These conditions noted above are not an area of major concern. However, in the process of obtaining the various samples and tests referenced above, the consultant also sampled surface water for PFAS presence at the Landfill's point of discharge. The test results did find evidence of the existence of PFOA at 0.0152 ug/L and PFOS at 0.0138 ug/L at the point of stormwater discharge for Florida Recyclers, as well as for the Sarno Road Landfill. Currently, FDEP and the EPA has not established a standard for PFAS. However, such a standard is expected in the future. Current provisional surface water screening levels for PFOA and PFOS are 0.015 ug/L and 0.004 ug/L respectively. The provisional cleanup target level for PFOA in groundwater is 0.07 ug/L. It is noted that in studies conducted statewide, there was evidence of the presence of this chemical in all landfills sampled. The concern regarding PFAS is more

an area of concern for unlined landfills such as the Melbourne and Sarno Road Landfills (the Cocoa Landfill (CDF) is lined).

Landfill Height:

The height that a landfill can be built as well as the slope and base area is a major factor that contributes to the calculation that results in the airspace available for use by the landfill. Airspace is a principal factor in the values and determination of the life expectancy of a landfill. The City of Melbourne granted the County a variance through Ordinance 2019-37, that allowed the Sarno Road Landfill to increase the height of the north expansion to 104 feet above sea level. This increased the life of this landfill to January 2023. This variance was granted under various conditions that Staff did not request, but were included at the request of the City. The two that have the most bearing being:

- The County shall, no later than December 31, 2024, submit a plan for the closure of the landfill, for such closure to occur on or before December 31, 2030, on which date the landfill shall be closed unless the County has applied for and received additional approval from the City before that date.
- Once the new US Highway 192 solid waste management facility is permitted and constructed, the county will halt all non-transfer station activities at the Sarno Road Landfill site and permanently close the landfill according to FDEP permits.

Florida Recyclers is currently requesting the City of Melbourne grant a height variance to increase the potential height of the Melbourne Landfill to 104 feet elevation. The City of Melbourne conducted an on-site visit to the property on November 9, 2020 and several issues were identified. The height application to the City was expected to be heard by the City's Planning & Zoning Board on November 19, 2020 but that hearing did not take place. The current application status is not known.

Observations:

With this background information we will proceed with observations relating to the potential purchase of Florida Recyclers Melbourne Landfill facility.

1. Depending on several factors, to some extent, the acquisition of this site would extend the life of the Sarno Road Landfill by:
 - a. 3 years – Without using the valley and without a height variance from the City of Melbourne.
 - b. 7 years – Using the valley and without the height variance from the City of Melbourne.
 - c. 10 years – Without using the valley and with a height variance from the City of Melbourne.
 - d. 19 years – Using the valley and with the height variance from the City of Melbourne.
2. In comparison, the US192 site has a projected life of 66 years.
3. The existing Florida Recyclers Landfill Trust Fund for closures is underfunded in comparison to our most recent closure projects. This shortfall would have to be accounted as an additional expense for the valuation of the Florida Recyclers property to fully evaluate and determine if a purchase is advisable. Since Florida Recyclers has

- requested to keep the trust fund, as a part of their proposal, the County would be responsible for funding all of the required escrow after acquiring the property.
4. Using the valley as a landfill will eliminate one County stormwater pond and necessitate the creation of a replacement pond, plus the existing ditches would have to be regraded to convey the stormwater to the new pond. It would also eliminate the Florida Recyclers Landfill stormwater ditch to the south of the property which is part of their stormwater retention system. The engineers have estimated the cost of stormwater improvements at \$2,122,275.
 5. While the environmental assessment performed for the County did not find existing issues it should be understood that the sampling and testing results do not assure that either there are no contaminants now nor do they assure that the Landfill could start producing measurable contaminant levels in the future. Thusly, the environmental impact of the Florida Recyclers Landfill is not clear but the County's purchase of this facility would mean assuming whatever the environmental risks the current owners have, including future potential environmental liability from PFAS contamination should pending regulation require remediation. Further, this situation is applicable regarding any other contaminants which although not detected at this point, should they be determined to exist in the future.
 6. The appraisals of the Florida Recyclers site as performed for the County do not assume that a City of Melbourne height variance has been or will be granted. Should such a variance be granted the appraised value can be expected to go up.
 7. The purchase of this property without a height variance, but using the valley, from the City of Melbourne would provide an additional 7 years of capacity. This capacity would come at a cost of \$11.00⁴ a cubic yard, for a single composite liner. This compares unfavorably with the cost of building Cell 1, which has a double composite liner, at the Central Disposal Facility of \$5.01⁵ a cubic yard (the cost per cubic yard decreases as other cells are built as the landfill can be built higher and the valleys in between the cells are filled). The same is true for the cost per cubic yard of \$4.88 which is the estimate for the first cell of US 192.
 8. Assuming Florida Recyclers or, if purchased, the County, is granted a height variance, the cost to use Florida Recyclers property would decrease to \$4.88 per cubic yard (see footnote 4). However, note the following additional information.
 9. The cost per cubic yard for all options mentioned above does not include the cost of a leachate collection and pre-treatment system, acquiring the "new" property, stormwater ponds or ditches, existing land, or any other construction cost not strictly related to the building of the liner. These costs would have to be added to arrive at a more rigorous cost estimate. (As a side note for clarification, the Central Disposal Facility also did not include the cost of a leachate tank because one is already in place.)
 10. The City of Melbourne would have to approve any option regarding this site with the exception of using it as a stand-alone landfill (see the 3-year extension in 1.a. above).
 11. There is an existing berm along Sarno Road that the City of Melbourne CUP required of Florida Recyclers. This berm resides in properties that belong to the City of Melbourne and Liberty Investments of Brevard, LLC. This is a pending issue which will impact the life expectancy and the costs of all options associated with acquiring the Florida Recyclers Landfill.

⁴ Cost presented are from a Jones Edmonds report from June 2018 is attached for reference

⁵ Actual 2016 cost from the construction of Cell 1 at the Central Disposal Facility

12. Time is critical and there are no assurances that the replacement option for the Sarno Road Landfill will be in place when it runs out of space. These delays could be in the negotiations to purchase the Melbourne Landfill, required City of Melbourne permits, construction delays, hurricanes and other similar issues.
13. An Invitation to Bid for the hauling and disposal of Class III waste generated from natural disasters was advertised by the County on November 12, 2020. Bid opening on December 10, 2020 showed three statements of No Bid. The inability to dispose of disaster related Class III debris elsewhere has the potential to greatly shorten the lifespan of the Sarno Road landfill in the event of a hurricane or other disaster.
14. Any option selected that increases the demand on the Cocoa Landfill (CDF) such as using a portion of it for Class III or other non-Class I needs will reduce the capacity and life expectancy of the CDF for Class I material disposal. This use results in accelerating the long term need to replace the Class I CDF with a new facility. The relative cost of Class I disposal is always higher than Class III material disposal. In effect, such a proposal reduces the benefit of the existing CDF to the rate payors.
15. In the event the County were to use the CDF for Class III disposal the life expectancy of the CDF would be reduced by 10 years.

The Florida Department of Environmental Protection (FDEP) has issued a draft consent order dated March, 2020. On this draft Consent Order FDEP listed four issues that resulted in the draft Consent Order being issued. On July 22, 2020, Florida Recyclers responded to the same by stating that the issues be treated as minor violations. The violations with Florida Recyclers responses to the same are listed below:

1. Objectionable odors were noted off-site beyond the property boundary.
 - a. They state that they are not the source of any off-site objectionable odors. They go on to state that there are other potential odor sources such as the Sarno Road Transfer Station, the Sarno Road Landfill and the dredge spoil site, all having the potential of generating odors⁶.
2. The facility did not have an all-weather access road, at least 20 feet wide, around the perimeter of the site.
 - a. In a letter from James E. Golden, P.G. from Grove Scientific & Engineering dated March 2, 2020⁷ it is stated that the road does exist.
3. The facility failed to ensure there were 50 feet fire breaks in the piles of processed and unprocessed material. This refers to the piles of mulch and vegetative debris located in the facility.
 - a. The letter from Mr. Golden states that additional 50-foot fire breaks have been cut through the mulch piles.
4. Processed materials have been stored on site for longer than 18 months.
 - a. The response states that FDEP can authorize a longer storage period.

These matters have not been resolved to our knowledge. The appraisals did not account for these matters and the cost of resolving them has not been included in any of the cost estimates. The perimeter road can have a financial impact on the purchase if the County were required to assume the responsibility of construction of the same. Further, installation of a

⁶ Source Jack Kirchenbaum response letter to FDEP, attached for reference

⁷ Letter from James Golden to FDEP is attached for reference

perimeter road may reduce the area of actual landfill thus reducing the life expectancy benefits coming to the County if the Melbourne Landfill were to be acquired.

Mulch

Florida Recyclers runs a yard waste business that converts the green waste into a commercially viable mulch and top soil. This mulch is kept in inventory at the site and would have no value to the County. In fact, the County currently pays to have our mulch hauled away and disposed of. We are estimating the cost of disposal for this mulch at \$2,196,700 based on our current contract rates. If the County were to acquire this property, one of the conditions should be that it is free of mulch and other organic materials such as composting. Not having this condition would add the \$2,196,700 to the cash needed to be able to use this property to construct a Class III landfill.

Financial Impacts

Purchasing the Melbourne Landfill from Florida Recyclers will have a major financial impact on the disposal system. The impact will come in three phases: the purchase of the landfill, the deposit to the escrow account, and the construction needed for the county to utilize the landfill. This impact on the escrow deposit will be from \$2,094,081 (with the trust fund turned over to the County) to \$3,011,654 (no trust monies). This estimate will be adjusted once a final survey is conducted. The most recent appraisals commissioned by the County varies from \$5,400,000 to \$2,700,000. These appraisals would need to be updated and can be expected to go up should a height variance be granted by the City of Melbourne. Construction estimates vary from \$14,145,481 to \$19,421,181 (includes removal of mulch), depending on the options available such as construction as a stand-alone landfill to using the valley as a landfill (with City of Melbourne permits). These items combined will cause an outflow of between \$18,939,562 to \$27,832,835. Also, the cost of construction of an All-Weather perimeter road around the Melbourne Landfill should FDEP require one is expected to add another \$700,000 to this cost and reduce the life expectancy of the facility at any allowable height and configuration (option 1a, 1b, 1c, or 1d). The reduced life expectancy has not been evaluated thus the needed rate charged to the rate payors has not been determined but it would increase relative to if the road is not required.

The Solid Waste CIP fund 4011 contains \$4,967,496 in CIP reserves for future capital expenditures and \$5,824,557 for the US 192 project for a total available of \$10,792,053. This funding balance does not take into consideration the \$25,000,000 expected to be needed for construction of Cell 2 in the Central Disposal Facility and other CIP Projects.

When money is borrowed for a project the life of the payback should not exceed the life of the project the borrowed money is used for. As such, any funds borrowed should not exceed the life of the asset being purchased. On the Florida Recyclers stand-alone option, the life of the asset would be expected to be three (3) years and the loan would have to be paid in three years or less. Using all of the funds available would require a loan of about \$8,000,000 which just the principal payment would be \$2,666,666 plus interest and it would require floating a bond for all related Cell 2 costs at the Central Disposal Facility. The maximum use of the asset would be filling in the valley and going to an elevation of 104 feet above sea level. This option would, as stated above, need the City of Melbourne approval and would result in a 19-

year life for the asset. The life of the asset would allow us to get bonds and the payback would be longer thus requiring a lower increase in the disposal assessment.

Summary

1. Appraisals – Vary from the Florida Recyclers Investment Value Consulting Report of \$8,416,000 to our appraisals of \$5,400,000 and \$2,700,000.
2. Escrow Deposit – The deposit is estimated at \$3,011,654 without the Florida Recyclers Trust Fund which they have proposed to keep.
3. Environmental Conditions – The presence of PFAS is a concern.
4. Land Fill Height – Florida Recyclers has not obtained a height increase from the City of Melbourne which greatly reduces the utility to the Disposal System.
5. Mulch – There is mulch present at the site that has no value to Brevard County. The estimate cost of disposal of the mulch is \$2,196,700 if the County were to purchase the property with the mulch on site.
6. Financial Impacts – The financial impacts vary from a low of \$18,939,562 (for a three-year life) to \$28,132,835 (for a 19-year life).
7. Additional immediate financial impacts of \$700,000 may be realized should FDEP require the construction of an All-Weather perimeter road. In this event the life cycle and rate expense to the rate payors would increase by an amount not yet identified due to the reduced life expectancy of the facility.
8. The FDEP draft consent order has additional cost implications for either Florida Recyclers or the County in the event the County completes a purchase.