

**Florida Recyclers of Brevard-Responses to January 6, 2021
Report to The Board on Melbourne Landfill from Euripides
Rodriguez, Director, Solid Waste Management Department.**

Dear Commissioners, this is a hurried response to the subject report. We understand from this report, that your Sarno Road Class III landfill (SRL) will run out of capacity by 2023. Therefore, it is incumbent on the Board to make the decision on which option to select to dispose of class III solid wastes in the County. We believe that the Melbourne C&D landfill is the obvious choice. Hereafter, on behalf of Florida Recyclers of Brevard (FRB), we restate the main points of the Report and respond accordingly.

Appraisals:

“Based on the three appraisals attached to the report, 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.”

Response: The average of all appraisals is \$5,505,333. The privately held trust fund, as it is a private financial instrument, like an insurance policy, would be dissolved if the site were acquired, and not transferred to the County. This has no effect on the actual cash outlay to purchase the site, as the County would be required to cover any new landfill site with an Escrow account for site closure.

The second appraisal done by Pinel & Carpenter, Inc., dated October 9, 2020 (for a valuation of \$2,700,000 with a forty-foot height elevation limit) was never shared with FRB, as was the previous Roper Appraisal. The Roper appraisal valued the 2 scenarios of a 40 -foot, and an 80-foot landfill, which is most reasonable. The Pinel appraisal only valued the lower scenario.

Closure Trust/Escrow Fund:

“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.”

Response:

The FRB site has an FDEP approved financial assurance trust fund that is only applicable to the current owners. These funds are never transferred to a purchaser of a landfill. This is NOT a cost issue for this transaction, as the County would have to finance any new landfill with an Escrow account to cover closure. The SRL has a current Escrow to cover closure of approximately \$14,000,000. Once the landfill is closed, these funds can be transferred to the FRB site, and easily cover the \$3-4M escrow for the 35-acre closure of the Melbourne landfill.

The mulch is another made up cost issue. FRB has always offered to remove the mulch prior to the County’s move to the site. In addition, the mulch/compost/top soil on the FRB site does have a great economic value to any landfill operator. Specifically, to the County, as over 200,000 cubic yards of top soil will be needed to be purchased to cover and close the Sarno Rd. landfill.

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)."

Response:

As the Report points out, the due diligence Phase I/II ESA report from PPM Consultants recommended no further assessment after testing all areas of concern on the FRB site. Therefore, the opinion of the County's contracted Environmental Professionals was that the site has a low environmental risk.

The PFAS contaminant concern is also blown way out of proportion. The testing results show that the FRB surface water has the same trace levels of PFAS as the adjacent Sarno Road landfill, so no real added risk to what the County already has. There are NO surface or groundwater standards set for PFASs in Florida. Going forward, this will be a risk at any landfill, including the US 192 site, so it should not be a significant concern for this site.

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."

Response:

The City Ordinance for the Sarno Rd. landfill can be modified to allow the expansion to the FRB site, especially, since it is a currently approved landfill within the City.

FRB are far along in the in the City's review process toward the variance for the 104-foot height approval. Currently, the agent Engineering firm, MBV is responding to the final staff comments, and we expect a staff report to that will recommend approval of the variance.

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.

Response: Scenario d., the 19 years of landfill life is the most probable scenario, if the County supports this site.

2. In comparison, the US192 site has a projected life of 66 years.

Response: Selection of this option means 66 years of commitment to a "disposal" only for class III wastes. More progressive counties are efficiently recycling, class III wastes and promoting options that do not include disposal only. Deciding for Disposal as the only option for Brevard will be judged harshly by future BCCs.

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.

Response: This is another moot point, that has been made to seem significant by this report. The County would have to fund their own Escrow account for any landfill that it has responsibility to close. Again, this trust fund is a private fund, that would always be maintained by the seller of a landfill, so not real surprise here. The County has an approximate \$14,000,000 escrow fund on the SRL and a \$47,000,000 escrow fund on the US 192 landfill, that isn't even built, seems a horrible waste of funds.

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.

Response: This is an operational cost that will be accrued at any expanding, or new landfill. These funds will be costed over a period of about 10-15 years, and should not be reasonably applied to this transaction.

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.

Response: The PPM phase I/II ESA report made clear that there were no environmental concerns with the FRB site. This is one of the cleanest landfills that I have ever seen. The report's concerns are unfounded and contrary to expert opinions.

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.

Response: Agreed.

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.

Response: These cost comparisons are not apples to apples. They do not consider the large transportation and infrastructure costs of going to the CDF and the US 192 landfills. These costs will not be accrued by the FRB site.

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.

Response: This is the most likely scenario, if the site is supported by the County.

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.)

Response: Again, the costs of constructing these infrastructure items would be orders of magnitude higher for the CDF and the US 192 sites.

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).

Response: Agreed.

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.

Response: The movement, or transfer ownership of this berm can easily be accommodated in any acquisition agreement. In no way will it affect the landfill air space, or life of the landfill.

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.

Response: Again, another non-issue. We understand that time is of the essence to decide on a replacement for the SRL. Much of the due diligence to purchase the Melbourne landfill has been completed, and thus the typical 180-day DD and negotiations time can be reduced. The fabricated potential delays can happen at any of the optional landfills, so these are not unique to the subject site. It would likely take longer to complete permitting and construction at the US 192 site.

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.

Response: This is another non-issue. Class III wastes can be staged, and burned under a Governor's Executive Order applied to hurricane recovery. Therefore, these wastes would not necessarily need to be disposed at the SRL. Regardless, the FRB site acquisition and permitting would be the most rapid of the options.

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 payers.

Response: Again, the FRB acquisition would be the most rapid, and avoid the use of the CDF.

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.

Response: Agreed.

Odor Consent Order

“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 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.

Response: All of the consent order matters listed in this report have been resolved with the FDEP. A final CO was executed on December 1, 2020. The CO actions include on going odor monitoring, reporting and approval for long term storage of mulch and top soils for use in landfill closure actions. A perimeter road was always in place. It had been blocked by equipment on the day

of the initial inspection, but has since been approved by a follow-up FDEP inspection.

The costs to the County to comply with this CO are low, and expire within one year.

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.

Response: The stored mulch and top soils on the FRB site have been agreed by the owners to be removed prior to the County's move to the site, say within 6 months of acquisition. Costs of removal of these materials seems a waste of a valuable resource. The SRL will require an approximate 250,000 cubic yards of top soil cover to close the landfill. Rather than pay \$20.00 per cubic yard, the County could use the mulch and top soils on site in the closure of the SRL just next door.

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 payers 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.

Response: Again, the Trust fund, escrow account issue is moot. The \$3-4 M escrow would need to be placed on all the options, not just the FRB site. Infrastructure costs at the US 192 site will far exceed the FRB site. The increased air space, and thus life of the SRL is a great value to the County, and will reach more than \$100 M over the 19 years of life. So, these supposed cost overflows' will be far outstripped by the value of the potential landfill space. There is a high potential to realize the 19-years of added SRL life, resulting in a good payback of expensed funds. The perimeter road is in place at the landfill, so nothing has to be constructed.

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.
Response: Average is \$5,505,333.
2. Escrow Deposit - The deposit is estimated at \$3,011,654 without the Florida Recyclers Trust Fund which they have proposed to keep.
Response: Sellers always kept a trust fund. This deposit estimate is far below the current +\$14,000,000 escrow for the SRL.
3. Environmental Conditions - The presence of PFAS is a concern.
Response: PFASs are everywhere. This is a low risk, already placed on the County.
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.
Response: The City's variance height approval is forthcoming.
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.
Response: Mulch will be removed by FRB, or can be left as a valuable closure material for the SRL.
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).
Response: these are expenses realized at any expanding landfill, and are

expected to be much higher for the US 192 landfill.

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.

Response; Not an issue.

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.

Response: Issue Settled with the FDEP. Low odor monitoring costs only for the next year.

Workshop Request

Since these issues are very complex, FRB requests that the BCC consider a workshop to evaluate all the various options for the expansion of the SRL. Thank you for your time to review this response.

Sincerely,

Grove Scientific & Engineering Company

A handwritten signature in blue ink, appearing to read 'J. Golden', is written over the company name.

James Golden, P.G.

Vice President – Senior Scientist Project

January 12, 2021