

HARRISON COUNTY UTILITY AUTHORITY  
SPECIAL BOARD MEETING  
July 28, 2017

Be it remembered that a meeting of the Harrison County Utility Authority Board of Directors was held on July 28, 2017, at 9:00 a.m. at the Harrison County Utility Authority Board Room, at 10271 Express Drive in Gulfport, Mississippi. In attendance were:

BOARD AND STAFF:

Supervisor Marlin Ladner, Harrison County (1), Director  
Mayor Billy Hewes, City of Gulfport, Director  
Mayor Andrew "Fofa" Gilich, City of Biloxi, Director  
Mayor George Bass, City of Long Beach, Director  
Supervisor Angel Kibler-Middleton, Harrison County (2), Director  
Mr. Al Gombos, representing the City of D'Iberville  
Mayor Chipper McDermott, City of Pass Christian, Director  
Mr. James Simpson, Wise Carter Attorneys, Esquire  
Mr. Donald Scharr, Executive Director, HCUA  
Mr. John Wilson, O & M Manager, HCUA  
Ms. Julie Christian, Chief Financial Officer, HCUA  
Ms. Cynthia Lewis, Office Clerk, HCUA  
Mr. Alan Lane, Solid Waste Coordinator, HCUA

ABSENT:

AUDIENCE:

Mr. Billie Skellie, Long Beach Resident  
Mr. Hugh Keating, City of Gulfport  
  
Mr. Derrel Wilson, Utility Partners  
Mr. Ron Robertson, City of Long Beach  
Mr. Roddie Matherne, Pelican Waste  
Mr. Tommy Thibodeaux, Pelican Waste  
Mr. Jon Bierd, Waste Pro  
Mr. Steve Bubern, Waste Pro  
Mr. Wally Carter, Team Waste  
Ms. Paige Carter, Team Waste  
Mr. Cody Waters, Team Waste  
Ms. Jenna Bennett, Team Waste  
Mr. Andrew Densing, Team Waste  
Mr. Tim Callahan, Team Waste

Letters of designation are attached hereto as exhibit "A".

There being a quorum sufficient to transact business of the Authority, Mayor McDermott called the meeting to order. The following proceedings were had and done.

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**A. Invocation and Pledge of Allegiance**

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**B. Public Comments**

Mayor McDermott opened the floor for public comments. There were no public comments.

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**C. 1 a - Old Business**

None

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**New Business – Non-CDBG**

**C. 2 a 1 – Report on Price Negotiations for Solid Waste Collection to Include Gulfport**

Mr. Scharr advised that he met with both Team Waste and Pelican Waste to negotiate prices for the inclusion of service to the City of Gulfport. With Gulfport, the prices for garbage and recycle services would be \$9.30 per household and \$2.87 per household for trash collection. With the inclusion of disposal costs, the total cost would be \$13.86 per household if Gulfport is included under HCUA contracts with Team Waste and Pelican Waste.

Mayor Bass made a motion to accept the Report on Price Negotiations for Solid Waste Collection to Include Gulfport, seconded by Mr. Gombos. A roll call vote resulted in the following votes:

Biloxi	voted	aye
Gulfport	voted	aye
D'Iberville	voted	aye
Long Beach	voted	aye
Harrison County (1)	voted	aye
Harrison County (2)	voted	aye
Pass Christian	voted	aye

The motion passed. A copy of the report is attached hereto as exhibit "B".

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### **C. 2 a 2 – Gulfport’s Request to Withdraw from the Solid Waste Contract**

Mr. Simpson advised the solid waste agreement with Gulfport requires a vote from the Board to let Gulfport out of the contract. No vote has taken place at this point.

Supervisor Ladner asked what conditions are required to be met prior to allowing Gulfport to withdraw from the agreement.

Mr. Simpson advised the Board can chose to let Gulfport out without meeting the contract requirements. He advised the contract states a public agency must submit a satisfactory plan to HCUA, outlining the treatment of their solid waste and demonstrating that their plan does not adversely affect the contract rights of HCUA.

Supervisor Ladner stated that Gulfport has not submitted a solid waste plan or their solid waste contract to determine any damages.

Supervisor Ladner made a motion to deny Gulfport’s Request to Withdraw from the Solid Waste Contract, seconded by Mr. Gombos.

There was a discussion regarding the litigation for solid waste disposal within Harrison County.

Mr. Simpson advised that based on the contract language and an opinion from the State Attorney General, that approving Gulfport’s request to withdraw would require a majority vote of the Board.

There was a discussion regarding third-party counsel and whether a conflict of interest exists with Mr. Simpson representing HCUA regarding possible litigation with Gulfport. Mr. Simpson advised that if a litigation position arose with Gulfport, he would choose not to represent HCUA and request outside counsel.

Mayor Hewes asked Mr. Scharr for his recommendation on the matter. Mr. Scharr advised that he has no recommendation because he feels this is a policy matter to be considered at the Board’s discretion.

Mayor Hewes addressed the matter of how Gulfport’s solid waste will be disposed of. He stated that Gulfport’s contract directs the garbage be disposed at the Pecan Grove landfill and the rubbish will be disposed at the Team Waste landfill.

Mr. Cody Waters advised that Team Waste will work to resolve the disposal matter regarding Gulfport’s waste stream. He stated Team Waste would be willing to drop the lawsuit if the waste streams go where they are supposed to

under the current HCUA contract. Mr. Waters stated a settlement agreement between Team Waste, HCUA, and the City of Gulfport will be required. The agreement will acknowledge that Gulfport will honor the language of their contract for the remainder of the disposal agreement.

Mayor Hewes advised that Gulfport's solid waste plan will mirror the HCUA solid waste plan.

Mr. Gombos stated Gulfport is still a party of the HCUA solid waste agreement if a vote is not taken today.

There was a discussion regarding the co-mingling of waste from Gulfport and its impact to disposal costs and agreements.

Mayor Bass requested the City of Gulfport provide HCUA with a signed contractual commitment stating Gulfport will dispose of all waste in a manner that ensures all garbage goes to Pecan Grove and all rubbish goes to the Team Waste landfill.

Mayor Hewes stated that it is not Gulfport's intent to bring harm to any entity within Harrison County by securing their own solid waste services. He stated if the Board votes not to allow Gulfport to withdraw, Gulfport will proceed on its own.

Mayor Gilich asked for a re-cap of the items that can result in harm/damages to HCUA.

1. MDEQ approved solid waste plan
2. Lawsuit with Team Waste
3. House count payments
4. Co-mingling of waste stream.
5. Obtaining alternate legal counsel

Mayor Gilich made a motion to obtain alternate counsel for representation with regards to Gulfport's request to withdraw, seconded by Supervisor Middleton.

Mr. Simpson suggested hiring Mr. Gerald Blessey to assist him with this manner.

Supervisor Middleton stated she was concerned with Mr. Simpson's ability to effectively represent HCUA under the threat of being reported to the Ethics Commission.

Mayor Hewes recommended the Board table any decisions until the August 3, 2017 board meeting. He stated this will allow the Board time to review Gulfport's contract. He also stated this will also allow Gulfport time to address the matters that may result in damages to HCUA.

Mayor Gilich withdrew his motion to obtain alternate counsel. Mr. Gombos withdrew his second. The motion died.

Gulfport will submit information to the Board by Wednesday, August 2, 2017 that addresses the matters that could result in damages to HCUA as listed:

1. MDEQ approved solid waste plan
2. Lawsuit with Team Waste
3. House count payments
4. Co-mingling of waste stream.

Supervisor Ladner withdrew his motion to deny Gulfport's request to withdraw from the Solid Waste Contract.

Supervisor Middleton asked Mayor Hewes if Gulfport would reconsider its recycle plan.

No action taken.

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### **Non-Agenda Discussion**

Mr. Simpson advised that HCUA has received 300 complaints on Waste Pro services within the last week. He stated that the Board must take action with regards to Waste Pro's performance. He stated that this is a matter to be taken up in Executive Session because of the possibility of litigation.

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Mr. Simpson recommended the Board enter into Executive Session for discussion on potential litigation.

### **Executive Session**

Supervisor Ladner made a motion to enter into closed session to determine the need for Executive Session. A roll call vote resulted in the following votes:

Biloxi	voted	aye
Gulfport	voted	aye
D'Iberville	voted	aye
Long Beach	voted	aye
Harrison County (1)	voted	aye
Harrison County (2)	voted	aye
Pass Christian	voted	aye

The motion passed.

Mr. Simpson stated the need to discuss the options for addressing performance issues and potential litigation with Waste Pro.

Supervisor Ladner made a motion to enter Executive Session, seconded by Mayor Bass. A roll call vote resulted in the following votes:

Biloxi	voted	aye
Gulfport	voted	aye
D'Iberville	voted	aye
Long Beach	voted	aye
Harrison County (1)	voted	aye
Harrison County (2)	voted	aye
Pass Christian	voted	aye

The motion passed. The Board entered into Executive Session.

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Mayor Gilich made a motion to exit Executive Session and return to Open Session, seconded by Mayor Bass. A roll call vote resulted in the following votes:

Biloxi	voted	aye
Gulfport	voted	aye
D'Iberville	voted	aye
Long Beach	voted	aye
Harrison County (1)	voted	aye
Harrison County (2)	voted	aye
Pass Christian	voted	aye

The motion passed. The Board returned to Open Session.

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There was no action taken during Executive Session.

**Adjourn** - At this time Mr. Gombos made a motion to adjourn, seconded by Mayor Bass. A roll call vote resulted in the following votes:

Biloxi	voted	aye
Gulfport	voted	aye
D'Iberville	voted	aye
Long Beach	voted	aye
Harrison County (1)	voted	aye
Harrison County (2)	voted	aye
Pass Christian	voted	aye

The motion to adjourn passed.

  
Harrison County Utility Authority  
  
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