

**TOWN OF MILLVILLE
BOARD OF SELECTMEN
Minutes of August 28, 2007
5:30 p.m.**

Board Members in Attendance: Chairperson Diane McCutcheon, Selectmen Thomas Petrowicz and Charles Poulin

Others in Attendance: Executive Secretary Helen Coffin; Town Counsel Judy Pickett; Highway Surveyor John Dean; Board of Health Members Tom Houle and Dave Stanley; Martin Suuberg, DEP Regional Director; John Regan, DEP; Ron Pong, Tata & Howard

The Board is meeting to discuss the status of the closing and capping of the landfill and the ongoing issues the Town has with the cooperation of the contractor, BATG.

McCutcheon explains the Town's frustration with BATG and their lack of cooperation. She details the various meetings and understandings the Town has had with the contractor, but they have never followed through with anything they agreed upon.

Suuberg responds that DEP understands the Town is acting responsibly with its Administrative Consent Order and that they recognize the Town is in a tight spot. He further explains that BATG has been fined by DEP and is in violation of the terms of their Order. BATG has filed for an appeal and is currently in the appeal process.

Regan explains that there are only two months left in the construction season and that DEP shares the Town's frustration. BATG continues to be punished and they are accruing additional fines on a daily basis. DEP is not giving up and they won't give up until they see the job completed to the satisfaction of both the Town and DEP.

Petrowicz asks why BATG is allowed to continue work in Charlton?

Suuberg responds that if doing something in Charlton was causing any disadvantage to Millville he would consider stopping them, but explains that Charlton is under a similar Administrative Consent Order as Millville and they also need to get their job finished.

Houle asks if the Town may be fined due to the delays?

Suuberg responds that DEP has no intention of assessing fines against the Town.

Houle asks what will happen if the landfill isn't completed by winter?

Suuberg responds that obviously the landfill functions best when it is closed and capped. DEP is also worried about getting through the winter and this is why they took action during the summer by assessing fines. BATG continues to accrue daily penalties for noncompliance.

Pong states that he heard BATG is short on personnel and perhaps they are just buying time because they have no manpower to work both jobs at this time. He expects the cost to finish the job is about \$50,000-\$60,000.

Attorney Pickett states that the Town needs to know if BATG is not going to finish the job because the Town will need to draft an RFP for a new contractor and ask that Town Meeting to approve the funding. Additionally, she states that the Town will go after BATG for any costs incurred as a result of their negligence to the terms of the contract.

McCutcheon summarizes that the Town is seeking guidance from DEP as to how the Town can get back to the table with BATG to get them to finish the job. She further advises that the Town has been spending money on Town Counsel and all departmental personnel involved with this project are stressed.

Suuberg indicates that DEP will be meeting with BATG very soon and perhaps the Town should wait to hear from DEP before deciding what the next move will be. He hopes to get BATG in for a meeting quickly (as soon as possible) and he will let the Town know when the meeting is scheduled. He believes that the Town's counsel should be present at such meeting. The Board agrees.

Regan feels that BATG's failure to comply with their contract could be a more expensive proposition than just finishing the job.

Suuberg said that they will consider assessing more penalties because the clock is running on their current stipulation of penalties.

Coffin asks the status of the Town's request for an extension?
Regan said the Town should have no concerns with the extension.

All parties understand that the Town may need to get through another winter with the landfill incomplete. At this time the Town will wait to hear from DEP before proceeding.

Respectfully Submitted,

Helen M. Coffin

Diane McCutcheon, Chairperson

Thomas Petrowicz, Selectman

Charlie Poulin, Selectman

APPROVED AND SIGNED 9/4/07