

DRAFT MINUTES
SOLID WASTE MANAGEMENT ADVISORY COUNCIL
SEPTEMBER 15, 2005
Department of Environmental Quality
Multipurpose Room 707 N. Robinson
Oklahoma City Oklahoma

For SWMAC Approval
May 18, 2006

Notice of Public Meeting The Solid Waste Management Advisory Council convened for its regular meeting at 9:00 a.m., September 15, 2005, in accordance with the Open Meeting Act, Section 311 of Title 25 of the Oklahoma Statutes. Notice of this regularly scheduled Council meeting was filed at the Office of the Secretary of State and Agendas were posted on the entrance doors at the DEQ Central Office in Oklahoma City at least twenty-four hours prior to the meeting. Mr. Torneten called the meeting to order. A quorum was confirmed. Mr. Torneten welcomed the new members to the Council.

MEMBERS PRESENT

Donald Fletcher
Steve Landers
Patrick Riley
Jay Stout
Bill Torneten
Ralph Triplett

DEQ STAFF PRESENT

Scott Thompson
Dee Ready
Sonny Johnson
Greg Garber
Shirley Brown
Amber Brawdy
Myma Bruce

MEMBERS ABSENT

Elzie Smith
Jeff Shepherd
Vacancy

OTHERS PRESENT

Christy Myers
David Griesel, EQB

Sign-in sheet is attached as an official part of these Minutes.

Approval of Minutes Mr. Torneten made motion to approve the minutes from the September 16, 2004 Regular Meeting. Mr. Triplett made the second. Roll call as follows with motion passing.

Donald Fletcher	Yes	Jay Stout	Yes
Steve Landers	Yes	Patrick Riley	Yes
Ralph Triplett	Yes	Bill Torneten	Yes

Public Forum - No issues raised.

Discussion of Fees/Expenditures – Mr. Scott Thompson, Director, Land Protection Division, provided an update on the budget and expenditures. Comments and questions from the Council and public were received and acknowledged. He also provided the annual Resolution from the Council for the Legislature and requested approval. Mr. Torneten signed the Resolution to be filed at Legislature before November 1, 2005. Mr. Torneten moved to adopt the Resolution as presented and Mr. Scott made the second. Roll call as follows with motion passing.

Donald Fletcher	Yes	Jay Stout	Yes
Steve Landers	Yes	Patrick Riley	Yes
Ralph Triplett	Yes	Bill Torneten	Yes

OAC 252:515 Ms. Dee Ready led discussion regarding proposed amendments to OAC 252:515 which would reflect language clarifications, corrections of legal citation and typographical errors, and a few other changes. There were also proposed changes to the waste tire rule and a five-year update required by the rules of the unit costs and worksheets in Appendices H and I related to annual estimated financial assurance costs for closure and post-closure of solid waste facilities. She related that it was staff's recommendation that Council set a special meeting to discuss these issues in more detail before approval and forwarding to the Environmental Quality Board for adoption. Following discussion, Council decided upon a Special meeting date of November 17, 2005. Mr. Triplett made the motion to schedule the Special Meeting and Mr. Torneten made the second. Roll call as follows with motion passing.

Donald Fletcher	Yes	Jay Stout	Yes
Steve Landers	Yes	Patrick Riley	Yes
Ralph Triplett	Yes	Bill Torneten	Yes

Public Forum - No issues raised.

Election of Officers Mr. Triplett nominated Mr. Bill Torneten to continue as Chair and Mr. Landers seconded that motion. Roll call as follows with motion passing.

Donald Fletcher	Yes	Jay Stout	Yes
Steve Landers	Yes	Patrick Riley	Yes
Ralph Triplett	Yes	Bill Torneten	Yes

Mr. Triplett nominated Mr. Jay Stout to continue as Vice-Chair. Mr. Torneten made the second. Roll call as follows with motion passing.

Donald Fletcher	Yes	Jay Stout	Yes
Steve Landers	Yes	Patrick Riley	Yes
Ralph Triplett	Yes	Bill Torneten	Yes

Setting of Dates and Times for 2004 Council Meetings Mr. Torneten then called for discussion for CY 2006 meeting dates and locations. Dates discussed and approved were May 18 and September 14 scheduled for Oklahoma City. Roll call as follows with motion passing.

Donald Fletcher	Yes	Jay Stout	Yes
Steve Landers	Yes	Patrick Riley	Yes
Ralph Triplett	Yes	Bill Torneten	Yes

Adjournment Meeting adjourned at 10:30 a.m.

Transcript and Attendance Sheet are attached and made an official part of these minutes. Resolution also attached.

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF OKLAHOMA

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TRANSCRIPT OF PROCEEDINGS
SOLID WASTE MANAGEMENT ADVISORY COUNCIL
OF REGULAR MEETING - ITEMS 1-12
HELD ON SEPTEMBER 15, 2005, AT 9:00 A.M.
IN OKLAHOMA CITY, OKLAHOMA

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ORIGINAL

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MEMBERS OF THE COUNCIL

DONALD FLETCHER - MEMBER

RALPH TRIPLETT - MEMBER

JEFF SHEPERD - MEMBER

BILL TORNETEN - CHAIRMAN

STEVE LANDERS - MEMBER

ELZIE SMITH - MEMBER

PATRICK RILEY - MEMBER

JAY STOUT - VICE-CHAIR

STAFF MEMBERS

MYRNA BRUCE - SECRETARY

SCOTT THOMPSON - LPD STAFF

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Myrna, could you do the roll call?

MS. BRUCE: Donald Fletcher.

MR. FLETCHER: Present.

MS. BRUCE: Steve Landers.

MR. LANDERS: Present.

MS. BRUCE: Ralph Triplett.

MR. TRIPLETT: Present.

MS. BRUCE: Jay Stout.

MR. STOUT: Here.

MS. BRUCE: Elzie Smith is absent for now. Jeff Sheperd is absent. Patrick Riley.

MR. RILEY: Here.

MS. BRUCE: Bill Torneten.

MR. TORNETEN: Here.

MS. BRUCE: We do have a quorum.

MR. TORNETEN: I would like to begin by welcoming three new Council Members, one of whom is not quite here yet. I understand he's on the way.

Patrick Riley is joining us. Patrick is an environmental scientist currently working for Cardinal --

MR. RILEY: Cardinal.

MR. TORNETEN: -- I believe.

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PROCEEDINGS

MR. TORNETEN: I think we're ready to start. I'll read the Protocol Statement for openers. This regularly scheduled meeting of the Solid Waste Management Advisory Council was called in accordance with the Open Meeting Act.

Notice was filed with the Secretary of State on November 24, 2005 (sic). The agenda was duly posted on the doors of the DEQ, 707 North Robinson, Oklahoma City, Oklahoma, 24 hours prior to the meeting.

Only matters appearing on the posted agenda may be considered at this regular meeting. In the event that this meeting is continued or reconvened, public notice of the date, time and place of the continued meeting will be given by announcement at this meeting. Only matters appearing on the agenda of a meeting which is continued may be discussed at the continued or reconvened meeting. There's some new language in there, isn't there? I felt like I was reading that for the first time.

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MR. RILEY: Right, right.

MR. TORNETEN: And what position are you filling on the Council?

MR. RILEY: For Ken Purdy. I'm taking over his position.

MR. TORNETEN: Okay. And Don Fletcher is joining us from Waste Management. Don is a senior district manager. Welcome.

And when Elzie arrives, Elzie Smith is the Mayor of the City of Pawnee and I understand he is on his way and will be joining us shortly.

We need a motion to approve the Minutes of the September 16, 2004 Regular Meeting. I'll motion to approve.

MR. TRIPLETT: Did you move?

MR. TORNETEN: I moved.

MR. TRIPLETT: I'll second.

MR. TORNETEN: Do we need a roll count on that?

MS. BRUCE: Yes, sir. Donald Fletcher.

MR. FLETCHER: Abstain.

MS. BRUCE: Please don't

<p>everybody abstain because we won't pass them if you do, but you're welcome to.</p> <p>MR. TORNETEN: He wasn't here, but you can still vote yea or nay if you want to approve the Minutes.</p> <p>MS. BRUCE: Sonny, what do you think?</p> <p>MR. JOHNSON: As Bill said, he can vote if he wants to, but if he wants to abstain, Jay is going to vote.</p> <p>MS. BRUCE: Okay.</p> <p>MR. STOUT: I'll vote.</p> <p>MS. BRUCE: Okay.</p> <p>MR. STOUT: It may be no.</p> <p>MS. BRUCE: Sorry for the -- yes, sorry for the confusion there. I was counting on Jeff. Okay. For the Minutes, Donald Fletcher.</p> <p>MR. FLETCHER: Okay.</p> <p>MR. TORNETEN: That's a reluctant okay, you can put that in the transcript.</p> <p>MS. BRUCE: Steve Landers.</p> <p>MR. LANDERS: Yes.</p> <p>MS. BRUCE: Ralph Triplett.</p> <p>MR. TRIPLETT: Yes.</p>	<p>Page 6</p> <p>identical to the one from the year before.</p> <p>The one that I think is of importance, what we typically do is set our budget for -- based on what we received last year in income and through '05, we got 5.3 million dollars, which is the most we've ever received in solid waste fees. But I don't anticipate that kind of level of income to be maintained in this next year because a significant portion of our fees, increase in fees over the past couple of years has been due to some out-of-state waste coming in from the City of Wichita. And it's our understanding that Kansas is permitting a landfill, I think in Harper County, don't pin me down on that because I'm not 100 percent sure what the location is but -- so we anticipate the Wichita waste will be going there in six months or so, sometime later this year and that will make a big difference in terms of the total income of fees. Possibly in the neighborhood of a million dollars I'm guessing -- before we started receiving that, right around the four million dollar</p> <p>Page 8</p>
<p>MS. BRUCE: Jay Stout.</p> <p>MR. STOUT: Yes.</p> <p>MS. BRUCE: Patrick Riley.</p> <p>MR. RILEY: I'll trust you, so I'll say, yes.</p> <p>MS. BRUCE: Thank you. Bill Torneten.</p> <p>MR. TORNETEN: Yes.</p> <p>MS. BRUCE: That motion did pass.</p> <p>MR. TORNETEN: Okay. Is there any discussion from the public at this point? All right.</p> <p>Next, we have a Discussion of Solid Waste Management Program Fees and Expenditures and I think we're going to get some help with that one.</p> <p>MR. THOMPSON: You'll find in your packet, it may be a ways down, but I found mine about in the middle of the packet, it shows solid waste fees expenditures for '05 and it looks very similar to the year before. Also, you'll find a resolution, which is the mechanism we use to report this. I guess you need to vote on today. And it's essentially</p>	<p>Page 7</p> <p>mark.</p> <p>And Fenton tells me -- if you have any really hard questions on this, I'm just going to tell you to call Fenton. He's supposed to be doing this but he had another commitment. And he tells me this year this '05 -- in '05 we had a reduction in travel, actually, and I would expect that to not stay the same this year, in this same fiscal year, and I believe this covers the state fiscal year from July 1st to June 30th. And if anybody has any further questions on that?</p> <p>MR. TORNETEN: Do we have a copy of the resolution in our packet or is that --</p> <p>MR. THOMPSON: You should, it looks like this. There was a copy of last year's resolution --</p> <p>MR. TORNETEN: Okay.</p> <p>MR. THOMPSON: -- which was signed and it looks about like this.</p> <p>MR. TORNETEN: I guess maybe for the benefit of the new Members, at least, what we've done the last several years is</p> <p>Page 9</p>

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we've forwarded a copy of this resolution with the idea that it might do some good.

I don't know whether that's been the case or not. I think this budget has been routinely raided, but it's probably a good idea to do this again.

MR. THOMPSON: And the good news is, last year we were not hit --

MR. TORNETEN: Really?

MR. THOMPSON: -- for any extra money. And in the last legislative session, actually, the Agency, for the first time I can think of, except for specific projects, we actually gained some appropriated dollars, mostly in air quality, about \$800,000 to give us some non-Title V stuff, I guess.

MR. LANDERS: The new toxics program.

MR. THOMPSON: Yes. So --

MR. TORNETEN: The crux of what this --

MR. THOMPSON: -- it's been a good year for us.

MR. TORNETEN: Great. The crux

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of what this resolution is about, it says, the Council supports the statutory direction that solid waste fees and other environmental fees, such as those deposited to the Waste Tire Recycling Fund, be used only for the purposes for which they were collected. And that's the crux of what we're -- we're endorsing that concept, anyway. I don't know if our endorsement had anything to do with it, but at least last year it worked in that favor.

Do we need to vote on inclusion of this resolution again this year?

MS. BRUCE: Yes, sir.

MR. TORNETEN: Okay. I propose we include the resolution as written and drafted last year. Do we have a second?

MR. STOUT: Second.

MS. BRUCE: Donald Fletcher.

MR. FLETCHER: Is this the time for a question?

MR. TORNETEN: Sure, you can ask a question.

MR. FLETCHER: Now, the resolution is going to say that all the

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fees that are collected are going to be for these programs?

MR. TORNETEN: Yes. The fees that are put into these funds and programs should be used for the purposes for which they were collected, rather than used as part of a general revenue and we've --

MR. THOMPSON: There have been times in the past where some of the fee accounts had been appropriated as general revenue by the Legislature.

MR. FLETCHER: By the Legislature. Now, it looks like you're going to have an extra million this year?

MR. THOMPSON: Well, it's not a full extra million because we adjusted our budgeting, if you'll look at it, but we'll have a little more money than we have budgeted. Total FY05 budget is 4.9. So as the funding crept up, our budget crept up, too, but it will have to go back down as the budget decreases or as the fee income decreases over this next year.

So I anticipate we will budget what we expect to have on-hand throughout the

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year, but the following year I would expect this budget to decrease.

MR. FLETCHER: Is it trying to be like a net, whatever you bring in is spent?

MR. THOMPSON: For the most part, yes.

MR. FLETCHER: Okay. I think it's my turn to vote, I guess I approve.

MS. BRUCE: Steve Landers.

MR. LANDERS: Yes.

MS. BRUCE: Ralph Triplett.

MR. TRIPLETT: Yes.

MS. BRUCE: Jay Stout.

MR. STOUT: Yes.

MS. BRUCE: Patrick Riley.

MR. RILEY: Yes.

MS. BRUCE: Bill Torneten.

MR. TORNETEN: Yes.

MS. BRUCE: Motion passed. Thank you.

MR. TORNETEN: Does the Board have a roll in this budget process? I don't know -- David Griesel from the Board is here. I don't know -- David, do you know if they have any kind of voting or

<p>responsibility associated with this budget</p> <p>or are we the only entity?</p> <p>MR. GRIESEL: I'm new as far as that's concerned. Well, I would anticipate this budget will go to the Board; is that correct?</p> <p>MR. THOMPSON: Well, the whole Agency budget is presented to the Board, as well as any legislative initiatives for the year and while I don't think they get into the details of the budget, I mean, they are aware of it, but --</p> <p>MR. TORNETEN: Okay.</p> <p>MR. THOMPSON: -- I'm not sure that there's an actual vote on it by the Board.</p> <p>MR. JOHNSON: No.</p> <p>MR. TORNETEN: Just curious.</p> <p>MR. TORNETEN: All right. Next on the agenda is discussion of, first the proposed amendments to the OAC 252:515 rules. Did the DEQ want to do any kind of presentation on these new rules or a summary?</p> <p>MS. READY: Basically, House Bill</p>	<p>Page 14</p>	<p>Page 16</p> <p>additional rules needed to be formatted</p> <p>that we didn't have because of the changes</p> <p>and that's what you see in your package before you.</p> <p>In addition to that, there are also some tweaks, some minor tweaks. The 515 regulations became effective in 2003 and there was some typographical errors and there were a few things like a change in the arsenic level -- in one of the groundwater parameters changed. And so with that, there was also a study that needed to be updated regarding closure/post-closure costs that, according to regulation, needs to be updated every five years and that was updated this year. And if you'll look in your package, that's included and we needed to do that, due to all the things that it takes to -- that increase over the years and needed to be updated.</p> <p>And so with those, we put a package together that we need to try to get into the rules and change. Today's discussion only, is for discussion only, and if it</p>
<p>1606 was passed and signed by the Governor</p> <p>on May 27th, became effective July 1st.</p> <p>And it basically had a lot to do with how the people -- the processors and the kilns would be compensated --</p> <p>THE REPORTER: Dee, I'm sorry, can you speak up just a little bit?</p> <p>MS. READY: I'm sorry. Yes. Would you like me to start again?</p> <p>THE REPORTER: If you wouldn't mind. Thank you.</p> <p>MS. READY: House Bill 1606 was signed by the Governor on May 27th and it's the Waste Tire Recycling Act and it basically became effective July 1st. And with that came some changes to the statute on how tire processors and kilns are reimbursed by the Tax Commission for their activities regarding waste tires. And with those changes to the statute, there had to be changes to the 252:515 rules that parallel the statute.</p> <p>Basically, what we see in our package is how those rules come in line with what the statute required, some</p>	<p>Page 15</p>	<p>Page 17</p> <p>meets your approval from what you've seen</p> <p>and what we've discussed today, we would like to schedule another meeting sometime hopefully in November, at which point we will vote to see if we want to take it into the rulemaking stage.</p> <p>But that's basically what we're seeing here today and we had sent out all of this to the kilns and tire processors so that anyone that wanted to come and talk about it, since it impacted them directly, they could be here today and talk about any concerns that they might have.</p> <p>So at this point, if anyone in the room would like to discuss any of the package that we mailed out to you, we're open for discussion at this point.</p> <p>MR. TORNETEN: Yes. We might start with the clarifications and rule revisions to the 252:515 rules. There is a summary in the packet, it's kind of an overview of the proposed changes.</p> <p>Does anybody on the Council have any questions or comments regarding these?</p> <p>MR. TRIPLETT: The change in</p>

arsenic value, Dee, is that just
groundwater that's at these tire disposal
sites?
MS. READY: I'm sorry. That was
a different issue. What we have in front
of us today are tire rules, changes to the
tire rules in the 515s. In addition to the
tire changes, there are other areas in the
515 that are not related to tires that are
being changed, also. The arsenic level was
changed by EPA in a table in one of their
submittals, so we had to accordingly change
it, but it's not related to tires.
MR. TRIPLETT: It's not? Okay.
MS. READY: No.
MR. TRIPLETT: Okay.
MS. READY: There's basically
three changes. One is to the tire rules,
one is just tweaking of the 515s that we
needed to change as we progress from 2003
that we saw, and a change to the
closure/post-closure costs by the study
that we needed to address. So they're
separate issues.
MR. TRIPLETT: Okay. I guess I

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Where as before, collection and
transportation used to be considered
processing for the tire processors, we
don't consider that to be the case anymore.
They either have to produce chrome rubber
or they have to chip the tires to be
considered processing and they can get paid
\$54 a ton for that and then they can also
submit the fee to the Tax Commission for
collecting and transportation, but they are
two separate entities, where in the past,
just collecting and sorting used to be
considered processing.
MR. TRIPLETT: Yes.
MS. READY: So we pretty much
eliminated that, also offered the kilns the
ability to transport and collect and be
paid for that with the Tax Commission along
with their capital reinvestment that they
already get. And then there's certain
stipulations that, you know, to produce the
tires shreds you have to show you have a
market before you get paid and the kilns
have to show that they've actually put it
through the kilns and used it for energy

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would like to know, in the beginning, what
is the status of the tire recycling efforts
right now? I mean, is there money in the
fund? I mean, are these people that pick
up tires being reimbursed?
MS. READY: That was why we
wanted to redo the bill, is we had to go
into proration. There was not enough money
in the fund to pay the tire processors and
so they were being prorated and as it was
written, it was not working. And so we
wrote the bill and there were several out
there that were in front of the Legislature
and the DEQ also had a bill that we
proposed that we felt would be best to
resolve the problem and that bill,
fortunately, we feel, did get passed and
those particular things.
Basically, we went a different way
on how we pay the processors and the kilns.
The kilns now can go out and collect and
transport tires and they can be paid for
their collection and transportation efforts
and the processors also can go out and
collect tires and be paid for that.

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recovery before they're paid, but that's
regulated by the Tax Commission and so we
don't really get into that. So that's the
basis of the bill that was passed by the
Legislature and became effective July 1st.
MR. TRIPLETT: Can the tire
collectors or the kilns, can they also
charge a fee to the people that pick it up?
MS. READY: For collecting and
transportation, no, they cannot charge the
people that are picking up from the tire
dealers for that. That's -- they don't do
that, that's part of the 1606 bill. They
have to show that they collect five percent
annually from tire dumps in community-wide
services and landfills offering community
services and they have to collect from all
counties of the state. So there is a lot
of stipulations before they can get paid
from the Tax Commission on this.
MR. TRIPLETT: Do you have a list
of those people?
MS. READY: We do. We have a
list of the tire processors and the kilns
that are available that have -- the kilns,
they have the choice whether they want to

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collect and transport or whether they want to hire someone to do it for them. So far we've pretty much had every kiln indicate that they wanted to go into the collection and transportation and be paid for it.

So we have generated a list that when people call to find out who they want the tires -- who can pick up their tires, we fax them, and it's also on our website that we direct people to look at and they can see who to call to try to get their tires. And if, for whatever reason, they're not getting their tires picked up, we work with them to find out the problem and ask the questions by the rules that we have to follow, in order to move to the next step, to authorize and pick up, so.

MR. TRIPLETT: I'll visit with you later.

MS. READY: Okay.

MR. STOUT: Was the 10 percent to 5 percent reduction an incentive?

MS. READY: Sonny, do you know why that was?

MR. JOHNSON: Well, I think one of the big reasons is because we don't have

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MR. JOHNSON: That's for dumps, that's not for dealers. That was for tire dumps.

MR. TRIPLETT: This was county.

MR. JOHNSON: Pardon?

MR. TRIPLETT: This was county.

MR. JOHNSON: Yes, that was probably need to talk afterwards (inaudible).

MR. THOMPSON: We can help him with that.

MR. JOHNSON: Pardon?

MR. THOMPSON: We can help him with that.

MR. JOHNSON: Yes. We made a new category to assist counties and we have what we call our "T" dumps and our "S" numbers and those things and we -- in our guidance, we didn't put it as part of our rules, but we interpreted our rules to indicate that we can assist, particularly county commissioners, where they buy tires in quantity and they store the old ones until they get a sufficient quantity to pick up. And we will be assisting with

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the major tire dumps that we used to.

There are fewer tire dumps out there, so just the availability of having those. And, of course, last year -- for the last six months of last year, there was a moratorium on picking up anything. But it's just primarily an accommodation to assist the collectors because of the (inaudible) of the (inaudible) are out there. I think it's reflective on the program doing what it's supposed to do.

MR. TRIPLETT: Sonny, you said there was a moratorium on picking up?

MR. JOHNSON: There was -- during the last six months of last year, there was a moratorium, statutory, on picking up any tires. If there was a 10 percent requirement and then they had, say a moratorium for six months, that they didn't have to pick up any from the tire dumps.

MR. TRIPLETT: Are you saying from January to July?

MR. JOHNSON: That went away after -- yeah, June 30th.

MR. TRIPLETT: Maybe that's why I couldn't get them picked up.

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that effort.

MR. THOMPSON: I would like to add one thing. The bill was actually a compromised bill and it had a lot of our ideas in it, but it was a compromise among all the players that were involved in negotiating the issue and the tire -- the charge per tire to a citizen out there did not go up, but we think the program will remain solvent and won't need to be prorated (inaudible). As it kicks in and is active, we'll see if that remains true, but that's what we believe to be the case, that it can be done without raising the fee.

MR. JOHNSON: I might make another comment or two on that, as well. Interestingly enough, the language in this bill is designed that the fund is depleted every month. So Don indicated about the transfer of funds. You know, several years ago there was quite a surplus in the tire fund. The Legislature took several million dollars from the tire fund and put in the general fund. Under this current Act

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that's in effect until -- it went into effect July, the proceeds that are paid out of that fund are designed to go to zero every month. So there is levels, tier levels of payouts to the collection and transportation to the processors, capital reinvestment. And then once you hit these tiers, if there is a shortage in any one tier, then that's prorated. If there is no shortage, then next tier is paid and prorated and then the next and then the next. And after all four tiers are paid, any money remaining in the fund is distributed then to people who did collection and transportation, so it goes to zero.

Also, interestingly, I think, that although there is considerable language change in the Act itself, it really didn't have a huge effect on our rules as we had them written, so although the rules, it does have a substantial package before you, what we did was try to clean up the rules. So a lot of the language that you'll see is exactly the same as it was in the other

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must be prepared by an engineer must be sealed. I hope we aren't attempting to define in here what information must be prepared by an engineer, specifically.

What we get into here is the Board of Professional Engineers and Land Surveyors has very -- a very thorough definition of what they consider to be engineering, what constitutes engineering, and it includes a pretty long list of work products. And in order to comply with those rules, if you prepare, as an engineer, one of those work products, then you're obligated to seal that product.

We may want to discuss, and probably at a subsequent meeting is the time to do it, but we may want to discuss some language that we can fashion here that will kind of cover the fact that they've already defined what constitutes an engineering work product. And I don't know, either by reference or -- we probably don't want to repeat that entire list of tasks that constitute engineering in the Board rules, but we may collectively refer to them or

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rule, we tried to streamline our presentation of the rules, so our rules really didn't change that much.

The big change will be with the Tax Commission, because they had some additional requirements under the new Act that they have to do some auditing and inspection that they did not have to do before, so the people in the industry, processors and the kilns are all anxiously awaiting the new Tax Commission rules to see how this affects us all the Tax Commission does on their interpretation of that Act.

MR. TORNETEN: Okay. Going back to some of the proposed language changes, starting with Subchapter 3, 252:515-3-35. This is kind of a tricky one. There is a lot of history involved here with conflict between different professionals that are submitting, preparing information, whether it's in support of a permit application or any other kind of technical work product.

I guess the intent here was to -- it says, to clarify that only information that

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any other engineering work products as defined, et cetera, or we may want to simplify this, I'm not sure.

But when we say maps, drawings, surveys, calculation, information and data submitted, there is probably a host of other things that could be listed there that would meet this standard of an engineering work product. There is also very specific rules about sealing, what you seal, how you seal it, if you're sealing design drawings, do you have to seal every drawing or can you seal just the title page? So that's all been pretty well spelled out and any engineer that's going to be preparing a permit application will be following those rules. I'm not sure they're going to conflict with this at the same time, so that might be some -- an area where we want to fine-tune this and look at it. We can talk about that in more detail.

MR. RILEY: One of my concerns, also, is that where before we had the requirement for Tier II and Tier III modifications or applications, now it's --

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it appears to apply to a Tier I. So very simple modifications -- for instance, say you're updating your closure cost for inflation, does that now require a PE stamp or can that be submitted by the landfill without a professional engineer's stamp? Because anything submitted by a landfill could be considered to require a PE stamp, I think, now. So that's something to think about.

MR. TORNETEN: Okay. This refers to, I'm presuming, information submitted for -- in relation to a new disposal facility or a modification of existing permits. We don't qualify what kind of modification here. Maybe that's something else we need to look at. I don't think we really necessarily need to have PE's certifying costs -- minor cost changes in the unit costs.

MR. JOHNSON: Well, I think -- and again, we can certainly continue this and get with you all before we present it as rulemaking, but the big reason for that change is because that's a statutory

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requirement. And the statutory requirement made no consideration for Tier I, II or III. It just says information submitted must be submitted by a professional engineer for a-5,000 population. And these tweaks are things that we found that we needed to look at after our approval of the rules in 2003, so we just tagged this as one of the items that somebody found and said, why are we only requiring this on Tier II and III, the statute clearly says all applications. So this was an attempt to clarify that. I think you're right, I think that it does make no exception for tiers, simply because the statute for the tier requirement is that way.

MR. TORNETEN: That's interesting. So as this is written, if a facility is updating their closure and post-closure costs, they would need to have that update sealed by an engineer?

MR. LANDERS: That's considered a permit modification? This is referring to new or permit mods.

MR. TORNETEN: Actually, we don't

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submit those as permit mods when we submit them.

MS. READY: No, they're not mods.

MR. TORNETEN: They re just letters of requests. So I'm not sure that would meet the standard of a permit modification.

MS. READY: There were some -- at the beginning of June of 2003, it said you had to update your closure and post-closure costs and that was not even really done as a mod. In talking with one of the engineers, they saw that if you did it every year, that would become a mod each year and they didn't want that to be the case.

MR. TORNETEN: Right.

MS. READY: So it really didn't go into the file as a mod, even though the original 515's looked at it as a mod, because they saw that problem and didn't want it to be that mod every year, so it really wasn't written as a modification required every year, but they wrote that it would be approved and met the 515

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requirement. So I see what you're saying. It's kind of vague and wasn't real clear.

MR. TORNETEN: Yes, I'm not sure we really have a clear definition of what constitutes a permit modification, although the permit rules are pretty clear on it. I mean, they pretty well --

MS. READY: A lot of the operational, if you're changing operational or expanding --

MR. TORNETEN: Yes, right.

MS. READY: -- and that type of thing is definitely -- there is no doubt that those are mods, you know.

MR. TORNETEN: As part of the uniform permitting rules, I know they do not include such things as updating closure/post-closure costs, those aren't specifically identified as a permit mod. I think there is probably other letter, simple letter requests, information submittals that don't meet the uniform permitting standard for formal modification. I would expect those are outside of this requirement, but that

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probably needs to be revisited so we've got some clarity on that.

MS. READY: Some clarification.

MR. TORNETEN: Maybe sit down next with the uniform permitting rules and make sure that at least we understand, you know, that some of these simple routine-type chores that have to be done are included in that.

MS. READY: Do you have any comments on that, Greg, on what your group considers modifications in permits?

MR. GARBER: Greg Garber. We -- I think the way we've read the tier rules is that anything that requires a response or an approval is at least a Tier I. With respect to the substance of this rule change here, we haven't experienced any real issues with it in the last 12 months that I know of, so I think it's really an effort (inaudible) to form the language to the statute (inaudible).

But, yes, we basically treat every submittal that requires a response as at least a Tier I. That's the way to track

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a work product that requires calculations and that can even include cost estimates, any work that might be construed as requiring his professional expertise, then he should seal that work product.

Now if, you know, if, for example, a facility wanted to do their own updating of closure and post-closure costs, they wouldn't necessarily have that done by a PE, they might just apply the inflation factor and send it back in. Well, then the question is, does it comply with this requirement or not. That's not something -

MR. GARBER: The staff is not insisting that that be done by a PE, as far as operational daily activities of our review of submittals.

MR. RILEY: Then we get into a condition that we're looking at the rules, what the rules say and we're looking at what the staff requires.

MR. GARBER: Right.

MR. RILEY: And they're not always the same and that's confusing.

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the data, that's the way we understand the tier rules are written right now in Chapter 4, for solid waste, which is sort of different than some of the other divisions at DEQ.

MR. TORNETEN: Well, there's a couple of points then, as someone who submits a closure and post-closure cost estimate, for example, I probably need to know whether that's something I need to be sealing or not, not only to comply with this rule but also with the PE rules, so.

MR. LANDERS: Because it is approved, those costs are approved by DEQ.

MR. GARBER: Well, keep in mind now what is a Tier I mod necessarily doesn't -- doesn't necessarily -- again the licensing statute require a PE (inaudible). I think as the bill started out, you know, this is kind of a PE licensing issue in part. What does a PE have to do, and I'm not sure a PE is required to do estimating.

MR. TORNETEN: Yes. Basically, if a professional engineer does any kind of

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MR. TORNETEN: Well, I hope they're the same.

MR. STOUT: Never have been.

MR. TORNETEN: Sometimes interpretation is involved, but by and large this is your bible; is it not?

MR. GARBER: Yes, it is. As a rule, we do try to stick to the rules as much as possible. All I'm saying is that in our -- in the day-to-day operations, we have facilities that the owner/operators have revised their closure cost estimates using our forms on the website.

MR. TORNETEN: Right.

MR. GARBER: And submitted those for inflation adjustments and we've not objected to them for lack of a PE, to my knowledge. And if you look back at what is the essence of engineering, it involves physical science aptitude. Again, I'm kind of speculating here, it may go much further than that, but estimating is something that's done by contractors, professional contractors who know that section of business.

<p style="text-align: right;">Page 38</p> <p>MR. TORNETEN: Well, I think we definitely need to revisit this subject probably in some detail and decide how we want to craft some language so that if it's not something that needs to be certified by a PE, we probably need to figure out how to make that clear in here so DEQ, if they're not expecting it to be certified, if there isn't a need, then that's clear in here and whoever's doing the submittal understands that.</p> <p>MR. JOHNSON: I might say, though, the caveat is that the statute drives this.</p> <p>MR. TORNETEN: Sure.</p> <p>MR. JOHNSON: And it's fairly clear in the statute.</p> <p>MR. TORNETEN: So we may not have a lot of wiggle room here.</p> <p>MR. JOHNSON: Exactly.</p> <p>MR. TORNETEN: Yes.</p> <p>MR. JOHNSON: But we'll certainly visit it for improvement.</p> <p>MR. TORNETEN: Okay. It may be a matter that more of these routine work</p>	<p style="text-align: right;">Page 40</p> <p>go away.</p> <p>MR. TORNETEN: I'm looking at 23 -- 515-23, are those -- those are not solid waste rules, right? Or are they?</p> <p>MS. READY: Yes.</p> <p>MR. JOHNSON: Those are biomedical waste rules.</p> <p>MR. TORNETEN: Okay. So those are incorporated into the solid waste rules?</p> <p>MS. READY: Yes. (Inaudible Comment)</p> <p>MR. TORNETEN: Okay. No, I don't guess there's any changes in those. Subchapter 17, Stormwater Management. Part B here where it says land disposal facilities reads, if required by -- it looks like you took out OAC 252:605, I guess there's a new 606 that addresses this. We probably need to leave the OAC in there.</p> <p>This language, I have a little bit of heartburn with this language where it says, "if required". The way that the 252:606</p>
<p style="text-align: right;">Page 39</p> <p>products then do need to be sealed in order to comply with the statute.</p> <p>The 515-3-40, this was kind of a touchy subject, I remember a couple of years ago, this whole business about permitting of commercial regulated medical waste facilities. Do we have some new rules here or new statute that's kind of cleared this up?</p> <p>MR. JOHNSON: We do. The Legislature repealed it. That's a good thing.</p> <p>MR. TORNETEN: Yes. It was a little bit awkward, so now basically the permits for these facilities are to be handled under the 515-3 rules; is that correct?</p> <p>MS. READY: 515-23.</p> <p>MR. TORNETEN: Dash 23 rules.</p> <p>Okay.</p> <p>MR. JOHNSON: All we did was strike the requirements about the Certificate of Need.</p> <p>MR. TORNETEN: Okay.</p> <p>MR. JOHNSON: So we can make that</p>	<p style="text-align: right;">Page 41</p> <p>all facilities from which there is a stormwater discharge that's related to industrial activities are required to have a stormwater permit, and they specifically define -- Subchapter L defines solid waste disposal facilities, so it really isn't an "if". I mean, it is required.</p> <p>MS. READY: It could be an "if" on 2.</p> <p>MR. TORNETEN: Yes.</p> <p>MS. READY: Sometimes they don't need a construction site permit.</p> <p>MR. TORNETEN: Exactly.</p> <p>MS. READY: So I think it was related to whether if they needed both or one or the other.</p> <p>MR. TORNETEN: Okay. That was the second part of my question. To my understanding, at least in the past, we have not submitted for construction permits for anything that can be construed as routine landfill operations, such as operating the onsite borrow area or a permitted offsite borrow area, that's kind of part and parcel to operating a landfill.</p>

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It isn't a separate construction effort that would require a stormwater permit necessarily or a stormwater pollution prevention plan for your facility -- under Subchapter L, it should address those activities as potential pollutant sources.

MS. READY: Well, actually that general permit is kind of like a little section of it, if you've ever seen that in water quality --

MR. TORNETEN: Oh, yeah.

MS. READY: -- it's one big package and each little section is different little things. But under the current regulations, if you do have borrow areas greater than five, you do need a construction permit.

MR. TORNETEN: Well, I guess there is some interpretation there. I kind of reviewed the Subchapter L rules again. Now, Subchapter 606 and the Subchapter L rules, in particular, refer to operating facilities as opposed to new construction projects. Okay. So we're talking about a permit for a fixed facility where there's

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MS. READY: -- you know, we would have to visit with the water quality section to bring them --

MR. TORNETEN: -- we probably do need to. We probably do need to.

MS. READY: -- in on the conversation, because they are the ones that dictated this, so we have to adopt it.

MR. TORNETEN: They specifically asked for this language?

MS. READY: Yes. Yes, that's --

MR. LANDERS: Let me say also, Bill, that I think those rules only require a Sector L permit, for instance, for a landfill if those stormwater discharges are not covered under an OPDES permit.

MR. TORNETEN: An individual permit, right, which in some cases, that's true.

MR. LANDERS: In our facility, for instance, we have both.

MR. TORNETEN: In some cases that's true, but most municipal landfills operate under the general permit. It's just simpler, they don't -- they're not

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industrial activities. That's a separate permit than the permit for a construction activity, it's a total separate general permit. So if you were applying for coverage for a construction activity, it would be under a different general permit and it wouldn't -- typically it wouldn't be for an ongoing commercial operation.

So, again, I think we need to revisit this. Like I said, in the past we've not applied for coverage under the construction general permit for operation of the borrow pit onsite. I know we passed some new rules related to management of offsite borrow areas, we eliminated the requirement to get mining permits and there are new information requirements for operation of offsite borrow pits but, again, it's all part and parcel to your operating permit part of the facility. So --

MS. READY: And I think these are water quality requirements that we just referenced, so --

MR. TORNETEN: -- yes, and I --

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required to get an OPDES individual permit and they'll operate under the general permit. I mean, I've written a lot of these plans and they all address operation of the borrow area, what kind of measures, what kind of measures are you implementing to make sure you don't have a discharge that's going to impact stormwater from your borrow permit.

MS. READY: And that's why I thought it might be helpful to bring in water quality --

MR. TORNETEN: Yes.

MS. READY: -- for their interpretation of why they felt like they needed this.

MR. TORNETEN: I agree.

MS. READY: Which I'm not clear why they did, but they're the ones that --

MR. TORNETEN: Okay. I've specifically called them to ask this question in the past.

MS. READY: Did they help you?

MR. TORNETEN: Yes, they said yes, if you're addressing it under your

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general permit for operation of a landfill,
we don't see a need, so.

MS. READY: Okay.
MR. TORNETEN: Yes, I think we need to revisit that subject. I mean, there are numerous landfills out there that don't have separate construction permits for operating a borrow site.
MR. LANDERS: But it sounds like to me the if probably needs to stay, "if required".
MR. TORNETEN: Well, I think we need to resolve it and find out if it is, in fact, required.
MR. LANDERS: Well, I can say under Number One it's not -- there are some instances where it would not be required. Do we want to just -- (inaudible). I mean, I have two stormwater discharges, for instance, that are covered under my individual OPDES permit that I don't want to have to go get a Sector L for it --
MR. TORNETEN: Right.
MR. LANDERS: -- if it's already covered.

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are -- I don't know if there are proposed changes to the Sector L section of that permit, but if there are that are, I don't know if it would have any influence on this rule, but it might be worth at least consulting with water quality to see if that draft permit under review is going to influence this.
MR. TORNETEN: Okay. I think most of the remaining changes in here are pretty minor.
Any questions from the general public? We've pretty well talked about the waste tire rule changes. Are there any other questions regarding those?
If not, we'll move onto the five year update that's required by the rules of the unit costs. It was my understanding that the unit costs are guidance and aren't required, per se?
MR. JOHNSON: They are part of the rules.
MR. TORNETEN: Okay. They are part of the rules. So you're obligated to use those unit costs unless you want to

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(Talking over each other)

MR. TORNETEN: Well, I see what you're saying, if you have an individual permit.
MR. LANDERS: Yes.
MR. TORNETEN: Yes.
MR. JOHNSON: I might point out that the only reason this is here, this tweak on the rules, is because water quality changed their rule number and --
MR. TORNETEN: From one to five?
MR. JOHNSON: -- in the standards from five to one.
MR. TORNETEN: From five to one, yes. Yes.
MR. JOHNSON: All the other requirements are exactly as they were in 2003.
MR. TORNETEN: Right.
MR. RILEY: Something we need to point out, also, is this general permit for industrial discharge. The stormwater permit is going to expire the 28th of this month. So I think that water quality has a draft permit at EPA right now and if there

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make a case for something to the contrary.

MS. READY: Right. They are part of Appendices H and R of the rules and regulations, so they have to be followed.
MR. TORNETEN: Okay. I've looked through the unit costs in some detail and it's a bit of a moving target. I'm sure as you all are quite aware, particularly in recent months with the rapid increase in oil prices, costs of geosynthetics pretty much track oil prices, there is a pretty direct correlation between the cost for liner materials versus oil prices and you can even go to the point of per pound. That's pretty much the way most of the manufacturers, vendors, price their geosynthetics, is it's a per pound cost. With the recent rapid increases in oil prices, the costs of these geosynthetics has gone up dramatically. And I'm not sure that that's going to change or that they're going to go back down when and if oil prices subside.
But what I'm seeing when I look through the unit costs, some of the key

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numbers in here, particularly for construction, are probably going to be well short of current costs. I compared the unit costs in here, for example, the per foot unit costs for HTPE liner material, for example, and I compared them with recent quotes we've gotten on projects and we're well short of the mark in here.

I think what we may want to do at our subsequent meeting is, maybe sit down - and I don't know what the basis for some of the unit costs were in here, I know some of them come from means. I don't expect that's where the costs for the -- unit costs for the geosynthetics come from.

Greg, is that true or do you know where you all got these unit costs?

MR. GARBER: They are the Cardinal study costs from 2000 adjusted to weigh means and cost experience changed between 2000 and 2005.

MR. TORNETEN: Okay.

MR. GARBER: So, for example, if an item moved, a comparable item, let's say that it is an FML liner -- FML liner and if

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clarify, I know this is going to be a continual point of confusion, the numbers are the original Oklahoma numbers. All we've looked at is the increments of change in means, not their actual numbers.

MR. TORNETEN: Okay.

MR. RILEY: How is that different than the annual inflation update? I mean, the numbers that you post on the DEQ website that are updated each year that go into the unit cost spreadsheet.

MR. GARBER: Yes.

MR. TORNETEN: Well, means heavy construction cost data, they develop unit costs, I know you probably had occasion to use them, they develop unit costs data for all different kinds of construction and environmental, they have specialty books and whatnot, and supposedly they adjust those costs annually based on, you know, real world construction costs. They almost always go up but -- so I don't know that those costs probably aren't necessarily tied into any kind of general inflation factor.

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it moved three percent between 2000 and 2005 in the means database, then that particular item was adjusted by that three percent. So it's really not a means number, it's a Cardinal study number that was done for Oklahoma. And the only incremental difference is based on how means changed across whatever their database is, which I assume is across the country, this was the heavy industry construction database.

MR. TORNETEN: Right.

MR. GARBER: So that particular item changed three percent over a five year period. And of course, this is their published information which does not include what we're seeing in the recent memory here.

MR. TORNETEN: Right.

MR. GARBER: It's probably 2004 cost --

MR. TORNETEN: Exactly, it's old data.

MR. GARBER: -- that's been incorporated and published. But to

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But there always is this gap, I mean, you know, they'll develop their unit cost books and then six months later there could be something that's taken place that's had a dramatic impact on construction costs and that's particularly true in the case of these geosynthetic materials which, you know, they historically have fluctuated quite a bit.

What we may want to do, Greg, what you might want to consider is we may want to try and get some vendor numbers that are pretty current for some of these unit costs to see how they compare with the unit costs that are in here. I mean, these are adjusted for inflation but they are five years old and there's not only been a lot of changes in -- changes with respect to inflation costs, but also with materials. I mean, there's some new materials out there that are being used. A good example is GCL, Geosynthetic Clay Liner materials. There is a number of products on the market now that weren't out there five years ago and some of the ones that are out there now

are better products, but they're also more expensive.

Another thing that comes into play, it's kind of hard to have a generic number for Geosynthetic Clay Liner, for example, because there's many different kinds of -- or there's several different kinds of GCL products out there and the cost depends on what you're using the material for, what kind of liner material, is it on a slope, if it's on a slope it has to be textured and the cost can be dramatically greater than if it's on a flat area where it doesn't have to be textured. Depending on the, you know, how steep a slope you have, it might have to be reinforced, which again can roughly double the cost versus unreinforced material. So we may want to kind of factor some of that in here, too. For example, the unit cost for Geosynthetic Clay Liner cap material in here is 43 cents a square foot. On a recent job we received bids on, our low bid was 93 cents a square foot for GCL, so you can see there is a pretty big difference. But again, some of

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construction costs, but there's new materials out there, there's new placement methods, there's new -- and I think the so-called five year review ought to be the time to look at those things and make sure the numbers that we're using in here are representative of industry practice today, not five years ago. There's been a lot of changes in geosynthetics, in particular.

MR. GARBER: Yes.

MR. TORNETEN: And this might be the time to do that.

MR. GARBER: Yes.

MR. TORNETEN: I think there's some inconsistencies in these unit costs. For example, there is a cost in here for placing sand of \$19.40 a cubic yard, yet we've got a cost in here for placing topsoil which is typically considerably more expensive than sand, at \$14.45 a cubic yard. I'm not sure -- I just think we need to kind of revisit some of these numbers to maybe review the logic here.

Again, what I did is I compared a lot of these numbers to quotes from general

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that relates to what kind of GCL you're going to need. We may want to look at maybe coming up with, you know, not necessarily a worst case number, but maybe at least a number that's probably going to be GCL that would be used on most landfill slopes.

MR. GARBER: The effort of the DEQ report there was to accomplish the goal of adjusting the 2005 numbers to current without, shall we say, reinventing the whole study that we invested (inaudible) before. In other words, we were trying to do something more along the lines of (inaudible) something that was pretty discretionary and did not involve a lot of technical data development, just to explain the thinking behind the methodology we used. Certainly, those kinds of things could be considered and, you know, done.

MR. TORNETEN: Well, I would propose that's kind of the idea behind a five year -- a once in five year review, is to take a look at what's changed in the industry. You know, not just increase in

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contractors for building new cells to see how they kind of stacked up. In some cases they're pretty good, in other cases they're just -- they're off the mark.

MR. GARBER: There were -- I'm going to call them about 12, I'm going to call them categories of unit costs used here, three of those adjustments were less than what inflation would have adjusted and it was looked as with a new number. In other words, the 2000 number as adjusted according to means adjustment on that unit for that period of time resulted in slightly lower -- I'm not talking really lower, numbers for three of the categories and nine of the categories were above what inflation would have (inaudible).

MR. TORNETEN: Yes.

MR. GARBER: And did yield --

MR. TORNETEN: Yeah.

MR. GARBER: -- as far as estimates because we are using compounded inflation until the (inaudible) changes are finalized.

MR. TORNETEN: Well, I'm not

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<p>Page 58</p> <p>proposing that we go and look at every one of these unit costs, but there are a handful of really key costs in here that drive the numbers, you know, the total closure cost is really driven by just a handful of numbers in here that relate to, you know, to (inaudible) construction and I think maybe we could focus on a few of those key numbers and make sure that, you know, that the difference between a closure cost of a half a million and four million dollars could result by some of these numbers. So --</p> <p>MR. GARBER: I agree that this is a very important exercise for the State of Oklahoma. I don't think we want, as an industry, to be under budgeted on closure costs in the event we need to use the funds.</p> <p>MR. TORNETEN: Right.</p> <p>MR. GARBER: And there is a substantial opportunity to be underestimated here.</p> <p>MR. TORNETEN: Sure.</p> <p>MR. GARBER: So we will work with</p>	<p>Page 60</p> <p>represented in the real world as possible, but I want to re-emphasize what you said a minute ago, Bill. I would like to stay in the middle ground. I mean, I may not be one of those people who have to have textured slopes and things, and so to stay in the middle would be best for all of us, I believe.</p> <p>MR. TORNETEN: I think the biggest impacts, like we talked about before, are going to be in relation to these geosynthetic materials, which kind of track oil prices and we all know where those have gone in the last several months.</p> <p>Although construction costs in general have also had some real spikes, and I think we're going to see some significant increases in construction costs, in general, related to the hurricane, but I don't know, you know, how we factor all of that in. But I think it's a subject I think we need to give some attention and make sure we've got realistic numbers in here.</p> <p>MR. GARBER: And what we have</p>
<p>Page 59</p> <p>the Council in whatever manner you would like to do to get this kind of information into revision.</p> <p>MR. TORNETEN: Okay. I don't know, what's a realistic time line here? I know closure/post-closure cost updates are due next April. It might not be realistic to expect we're going to have new costs by then, I don't know.</p> <p>MR. GARBER: I think we'll have to go with the April inflationary adjustment because the whole rule package won't actually go into effect until, I think the earliest is July 1, of next year.</p> <p>MR. TORNETEN: Okay.</p> <p>MR. GARBER: That's my understanding of it.</p> <p>MR. TORNETEN: Any other comments, questions on the unit cost subject?</p> <p>MR. LANDERS: Well, let me say one thing as someone who has to pay the premiums for those financial assurance mechanisms. I want to have my closure/post-closure costs estimate as</p>	<p>Page 61</p> <p>proposed and what we have in front of us, we have a second basis for making adjustment that we actually haven't talked about yet and it just occurred to me. We did, in the post-closure and the sub-grade activities for well drilling, probes, subsurface work, the Department has actual contract experience over the same period of time and there is quite a difference in the adjustment because we have that actual cost data. I mean, it's probably almost in order of magnitude, like we have some adjustments that are 20 to 30 percent in those items because the Department's actual cost experience is kind of the thing that you're talking about --</p> <p>MR. TORNETEN: Right.</p> <p>MR. GARBER: -- has been that over the five year period. So it is a hint of what answer we might get, that's the way this adjustment is already on the table. We felt that we should use our actual experience where we have it and we did. And so you will see a difference in the adjustments because of that, for those</p>

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particular sub-grade activities, like probes, replacement plug, wells and the maintenance activities.

MR. TORNETEN: Right.

MR. TRIPLETT: Greg, did you find any -- are there any differences between different parts of the state in those?

MR. GARBER: We don't have the data in that amount of detail. Our contracts are let statewide, actually by -- I think it's our own group for remediation services on where we have to go in and replace our own wells on, say, superfund sites and things, but it's a -- I don't think there's a regional differentiation in the way pricing is set up, it's just one price for the whole state.

MR. TORNETEN: We don't see a lot of fluctuation in the bids we get. I mean, there's some, but generally there's not a huge, you know, the unit costs for drilling are kind of pretty well set. There is a fair amount of competition and generally you're going to see a pretty good agreement.

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back to sand just because it's quite a bit less expensive than the geocomposite.

So I think you're going to see, you know -- the past few years almost everybody was using the geocomposite, but I think that's going to change. We might want to look at that number in particular.

There is a couple of items that are fairly significant that aren't included in the construction costs for constructing cells, anchor trenches is one in particular. We see in our bids, you know, upwards of eight dollars a linear foot to construct anchor trenches for your liners and we really don't have a provision in our current construction costs for anchor trenches. That can be on a five-plus acre cell, that can get to be a significant number. We might even look at maybe a couple of things like that that we might want to add to this.

MR. STOUT: I have a question. I need for you to educate me here.

MR. TORNETEN: We could be in trouble.

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On another note, I think also what we need to look at is maybe incorporating some other -- a few additional options as start looking at some of these costs. For example, the placement of sand as your drainage layer, we really don't have an option here for onsite and offsite sand. And again, there's going to be a significant difference.

There are some facilities, not too many, but some that have access to materials that could qualify for use in their drainage layer and the cost would be significantly less than importing sand. That's a particularly important one, because I think you're going to see more and more companies use sand in lieu of composite drainage materials because of the high cost. The cost of geocomposite has gone up dramatically. You've got, you know, the textile and the geonet and the cost of those has gotten to the point where -- in a lot of cases sand is now the less costly option. I know in some of the designs we've done recently, we've gone

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MR. STOUT: With prices on everything being so volatile and this being just an estimate, what you change today could be wrong tomorrow, so what would be the point in trying to be that detailed? Because this does say estimate.

MR. TORNETEN: Yes, I don't think you need to be extremely detailed, but I think you need to get the major cost items in there associated with liner construction, which are going to be your clays, your plastics, and then your major construction tasks. I think you need to make sure those are in there, and I think you need costs that are fairly realistic of what it actually costs, because it can make a huge difference.

I mean, you know, if in fact it costs four point two million dollars and our costs say it's only going to cost four million, you know, I would agree that's probably not super critical. But if, you know, the closure cost estimate, using these unit costs, says that you can close out an area for two million and it's

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actually going to cost six million, I think that's a problem. I think that could come back and bite the State, because if it comes to a situation where they've got to use that bond to close a landfill, who's going to come up with the extra four million? I mean, you and I are. So that's why it's important. I mean, yes, it's a moving target and you're never going to be right on the money, there's going to be some fluctuation, typically that fluctuation is up. Occasionally, you'll see some of these costs come down but generally not. And inflation helps, I mean, you know, the general inflation factor counts for some of this but construction costs don't always track with general inflation. That's my take on it.

I mean, we routinely build new cells, get quotes from contractors and so we've got a pretty good gauge on what it costs to do this, you know. We may get four or five bids from different companies and we've got a pretty good database of what does it cost to place clay and buy

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geomembrane and, you know, build these things. That's probably a pretty good comparison and I would hope that the numbers in here are reflective of that.

MR. GARBER: I guess I should mention that we are really talking -- or the scope of what we're trying to estimate here is limited to closure and post-closure care costs. Bill's been talking about some items that may be items that are included in new construction costs because that's where this cost experience is in actuality these days that's what's going on, but the same items may be included in closure costs, as well. Placing FML, placing a drainage layer for protective cover or the final cover, anchor trench also might be needed in the scope of work of building a final cover, but that's really the scope of what we're talking about here, it's not new construction, it's the final cover of cells (inaudible), or whatever, that gives the money to fix it.

MR. TORNETEN: We've got both. We're doing -- we do closure cells, too.

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Any other comments, questions? Okay.

Let's see, what's up next? We need to schedule a date and location for a special rulemaking meeting.

MS. READY: My question at this point, Sonny, with all the discussion that we've had here is, do we need further discussion meetings or can we go --

MR. JOHNSON: I think we'd be pressed for time to do that.

MS. READY: Okay.

MR. JOHNSON: I think what we need to do, if Bill wants to maybe form a subcommittee and work with staff or us, just to get with you all to work out some of these issues to come back, but I think we need to go ahead and schedule a special meeting on a date certain so that we can have a rulemaking package go forth. We have to do a publication notice and get the information out to the public, because it definitely needs to go forward whether or not we tweak this particular language.

MR. TORNETEN: What are we shooting for here, as far as getting these

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rules put together?

MS. READY: We were hoping to schedule a meeting in November.

MR. TORNETEN: Right.

MS. READY: And then Sonny, you gave me those dates that we needed to -- what were we talking about the other day that we need to get those in by?

MR. JOHNSON: We have to submit it to -- registered on September 23rd for the October 17th publication.

MR. TORNETEN: September the 23rd.

MR. JOHNSON: October 17th publication, we couldn't have a meeting before November 7th.

MS. READY: So we're looking some time early November before we can get it publicized and have it in front of you for a vote.

MR. TORNETEN: I guess I'm confused. I would have expected the vote would come at the next regularly scheduled Council meeting, but this was going to be the session where we got together and

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talked about it. Have I got this mixed up?

Or is this a special meeting -- regularly scheduled meeting of the Council that we're talking about here?

MR. JOHNSON: Well, it's not regularly scheduled, because today was the only one scheduled for this year.

MR. TORNETEN: Yes.

MR. JOHNSON: So any other meetings we have before you set next year's schedule would have to be a special meeting.

MR. TORNETEN: Okay.

MR. JOHNSON: And that would be the rulemaking meeting.

MR. TORNETEN: And that's -- you're shooting for November on that meeting?

MS. READY: Sometime in November.

MR. TORNETEN: So if we're going to tweak these and hammer out some language and whatnot, that needs to happen before the November meeting.

MR. JOHNSON: And there will be two more opportunities, at your November

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would be okay, except Thanksgiving day.

MS. READY: We have Thursday the 3rd of November, the 10th of November, the 17th and the 24th.

MR. TORNETEN: The 10th.

MS. READY: The 24th is Thanksgiving, so let's throw that one out.

MR. TORNETEN: Yes. Would the 10th work?

(UNIDENTIFIED): The 10th works for me.

MR. TORNETEN: Do we have any conflicts?

MR. JOHNSON: I might point out that the 11th is a holiday. (Inaudible).

MR. STOUT: What holiday?

MR. JOHNSON: Veteran's Day.

MR. STOUT: That only applies to you all.

MR. TORNETEN: That wouldn't be a problem with you guys, would it?

MR. JOHNSON: No.

MR. TORNETEN: The 10th is all right?

MS. READY: Myrna was just

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meeting would be one opportunity for public input, as well as input by the Council and then, of course, they have to still go to the Board, which we anticipate would be at the February Board meeting and they have to be approved there. They could be tweaked there, as well. And then once the Board would stamp their approval, of course, then it has to go before the Legislature next session. They could either accept them or reject them.

MR. TORNETEN: Okay. Well, let's get the calendars out and see if we can agree upon a date that we can convene sometime in November. The early part would be better, wouldn't it, before the holidays start getting cranked up.

MR. JOHNSON: Do we want a Thursday, again?

MR. TORNETEN: I guess Thursday is --

MS. READY: Myrna, are you showing anything in November that would be a good date?

MS. BRUCE: Any of the Thursdays

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telling me that we have another meeting at 1:30, so as long as we're done before noon on this meeting. Do you think it would take longer than three hours?

(UNIDENTIFIED): We better go to the 3rd.

MR. TORNETEN: Yes. I mean, it may not but --

MS. READY: But in case, we may want to go with the 3rd.

MR. TORNETEN: Yes. Would the 3rd work?

MR. JOHNSON: No. The 3rd wouldn't work time-wise with the publication on October 17th, that wouldn't give us enough time. It would have to be after the 7th.

MS. READY: We could go until 1:00, but you would have to move upstairs from this room.

MS. BRUCE: No, I would go upstairs to 10 for the Lab Council at 1:30 so we'd just need enough time for Christy and I to leave here to go upstairs at 1:30. I'm just saying that you could go until

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1:00
change the date.

MR. STOUT: Or we could start at
8:30
MS. READY: It doesn't have to be on Thursday, does it?
MS. BRUCE: That's just the Thursday dates that we were talking about. My only dates are, that we can't, would be November 1st, November 8th, November 14 and 15 and the afternoon of November 10th. Those are already scheduled Council and Board meetings.

MS. READY: We have November 9th on a Wednesday, that's totally open all day.

MR. TORNETEN: Would the 9th work for everybody?
MS. READY: Let's go with the 9th.
MR. TORNETEN: Let's go with the 9th.
MS. BRUCE: At 9:00?
MR. TORNETEN: Yes. Is this something we need to vote on or can we just

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--

MS. BRUCE: Yes.

MR. TORNETEN: -- we do need a vote on this?
MS. READY: Yes, you do need a vote.
MR. TORNETEN: Okay.
MR. TRIPLETT: I would move that we set our special meeting for November the 9th at 9:00 a.m. at the DEQ building.
MR. TORNETEN: I'll second.
MS. BRUCE: Donald Fletcher.
MR. FLETCHER: Yes.
MS. BRUCE: Steve Landers.
MR. LANDERS: Yes.
MS. BRUCE: Ralph Triplett.
MR. TRIPLETT: Yes.
MS. BRUCE: Jay Stout.
MR. STOUT: Yes.
MS. BRUCE: Patrick Riley.
MR. RILEY: Yes.
MS. BRUCE: Bill Torneten.
MR. TORNETEN: Yes.
MS. BRUCE: Motion passed.
MR. TORNETEN: Greg, would --

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maybe we could talk about a time that we could sit down for a brief meeting. It may not be brief, but at least a meeting and hash out some of these language issues and --

MR. GARBER: That would be fine. I was just wondering -- it worked -- the last time we did rules we had kind of a subcommittee. Again, I don't know maybe if we can do that (inaudible). Remember, we had the drainage coverage (inaudible) --

MR. TORNETEN: Right.
MR. GARBER: -- so to speak (inaudible) group like that.
MR. TORNETEN: We're somewhat bound, aren't we, in terms of the rules as to how many Council Members can be in attendance?
MR. JOHNSON: You can't have a quorum.
MR. TORNETEN: We can't have a quorum.
MR. JOHNSON: You can't have a majority.
MR. TORNETEN: Okay. So we would

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be limited to, I guess, four -- four as a maximum.

MR. GARBER: And it may not be necessary. I mean, I was just -- I was thinking that -- is there any limitations on what we can do off the record between sessions, Sonny, in a public meeting?
MR. JOHNSON: Yes, it wouldn't be a public meeting.
MR. GARBER: Right, I understand. We're trying to basically fact-find and do some sort of, I would say, scoping. I'm thinking what is really going to be needed is maybe after the session here, you can give me some idea of what things specially you would like me to look into, I can get that information and then we can sit down when it's available with this time table in mind that we're trying to get the matters prepared for November 9th, so that it can be discussed and get all the material out there so the Council can make a decision on November 9th as to what it wants to do with this.

MR. TORNETEN: Okay. Dee, I

<p>think the first thing we talked about was maybe getting an audience with Water Quality, to visit this subject. MS. READY: I think that would be good. MR. TORNETEN: We could maybe address that in just a short -- MS. READY: Maybe you and I could work on that particular aspect, Bill. MR. TORNETEN: Okay. MS. READY: And I could arrange such a meeting and then you and Greg can get with the unit costs as a separate. MR. TORNETEN: Okay. Anybody on the Council that wants to participate in this effort is more than welcome. MR. RILEY: I would. Let us know when it is. MR. TORNETEN: Okay. I'll get with Greg and see if we can kind of come up with a date between now, and it probably needs to be pretty quick so you guys have got a chance to incorporate any language or changes into the proposed rules. And who would care to participate in this? Chris</p>	<p>Page 78</p> <p>Page 80</p> <p>MR. GARBER: -- entity that would be doing the spending.</p> <p>MR. TORNETEN: What I can bring to the table are vendor quotes. There really is only -- there aren't that many landfill geosynthetic manufacturers out there. There is three or four companies that you're typically going to get bids from, so it's not a huge undertaking. What I could bring to the table would be recent quotes for geosynthetics. It really doesn't matter, you know, sixty mil HDPE costs what it costs, if it's textured or untextured, and here's the unit cost and here is what, you know, whatever company, GSE or whoever, is charging and they're going to be similar numbers. Where it can get kind of messy is when you get into geocomposites and some of the other materials but, I mean, I can bring those numbers that reflect current quotes as a pretty good starting point.</p> <p>MR. GARBER: Yes. I think the way the database is maintained by the people that are in the business doing it,</p>
<p>would.</p> <p>MR. LANDERS: I probably would.</p> <p>(Inaudible comments)</p> <p>MR. TORNETEN: Okay. I mean, you all will be seeing this, whatever the outcome is, obviously, again in November. I don't know, Greg, have you guys ever done any solicitation with vendors, called vendors to see -- you know, they might not be all that receptive in so much as they know it's not going to result in a job for them. Then when we call them, you know, their eyes light up, oh, there might be work here and they're usually real cooperative and they'll put out a little bit of effort to, you know, provide us costs.</p> <p>MR. GARBER: Right. No, actually, we haven't. We don't generally make such an effort.</p> <p>MR. TORNETEN: Yes.</p> <p>MR. GARBER: It is pretty hypothetical, theoretical since we're not the actual --</p> <p>MR. TORNETEN: Right.</p>	<p>Page 79</p> <p>Page 81</p> <p>is they attend public bid openings and collect as much of the data right there on the scene, so to speak, as they can, while it's public and available. The information is highly confidential and to get accurate numbers, you have to actually attend bid openings and things. Any place where this would be publicly bid in Oklahoma would certainly be important.</p> <p>MR. TORNETEN: Really, the --</p> <p>MR. GARBER: I haven't even given any thought to where we're going to find it.</p> <p>MR. TORNETEN: Yes. Well, the vendor numbers aren't any big secret. They are quite willing to share their costs with you, they just don't like going to much effort unless they think it's going to bear some fruit. But the data is out there. Like I said, there isn't a huge difference between the same material from one vendor to the next.</p> <p>MR. GARBER: The installation because oftentimes dominates the cost of materials versus the efficiency involved in</p>

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the whole process.

MR. TORNETEN: Yes, it certainly is a significant component and those are costs that have gone up and are going to go up dramatically in Oklahoma, at least. The largest installer, I don't know whether you were aware of that or not, but Manhattan is no longer going to be in that business. So probably the largest single installer in this state is not going to be doing it anymore, so you're going to be looking to bring installers in from Texas or out of state somewhere and you can expect those costs are going to be more. But --

MR. GARBER: Well, then there are specialty subs that work in Texas, Oklahoma, Kansas and New Mexico.

MR. TORNETEN: Right.

MR. GARBER: In this neighborhood.

MR. TORNETEN: Sure.

MR. GARBER: That we see all the time and I'm sure we could somehow get a hold of that kind of information through private contract means or whatever, that

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data would be very relevant.

MR. TORNETEN: Sure.

MR. GARBER: And would be easy available. We weren't anticipating an adjustment of that kind in the methodology, we were expecting -- you know, it certainly is important that we get -- I'll call it accurate costing or pricing for this work. I don't think we can ever get it -- I think that was kind of Jay's point that was made and I think it was somewhat well taken, if you make a single point adjustment in a time space like we are, you run the risk of being outside the norm of what's over long term that data might show. So it is, I guess, to have more data and to have a longer time span, produces the risk of being inaccurate when making decisions.

MS. READY: Bill, Myrna just informed me that November 9th, that we have a conflict with this room, but we can schedule it at another place. I mean, we can have it in the fifth floor conference room and keep the November 9th date, if that's okay. It's a pretty big conference

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room.

MR. TORNETEN: That's fine with me. Does anyone have a problem with that? Okay.

THE REPORTER: Also, I've got about ten minutes of paper left, so if you can finish, fine, if not, I'll stop and change my paper. I've got it on as small of writing as I can.

MR. TORNETEN: Yes, go ahead and change. We've probably got at least that much, maybe a little bit more. I guess at this point, we have an opportunity for a public forum. Does anybody out there have any additional comments?

THE REPORTER: Do you want it on the record? I can't change my paper -- I have to stop.

MR. TORNETEN: Okay, go ahead. We'll take a break.

(Off the record)

(Back on the record)

MR. TORNETEN: At this point we're ready to elect officers for the next calendar year. We'll begin by nominations

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from the Council and I guess we just have a Chairman and a Vice-Chairman.

MR. TRIPLETT: I would nominate Bill Torneten as Chairman.

MR. LANDERS: I support that nomination.

MR. TORNETEN: Is there any discussion? Does anybody else want to -- okay, I guess we need a vote.

MS. BRUCE: Donald Fletcher.

MR. FLETCHER: Yes.

MS. BRUCE: Steve Landers.

MR. LANDERS: Yes.

MS. BRUCE: Ralph Triplett.

MR. TRIPLETT: Yes.

MS. BRUCE: Jay Stout.

MR. STOUT: Yes.

MS. BRUCE: Patrick Riley.

MR. RILEY: Yes.

MS. BRUCE: Bill Torneten.

MR. TORNETEN: Yes.

Vice-Chair. Jay, is that you?

MR. STOUT: Do you really want me another year?

MR. TORNETEN: I don't feel like

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we've hardly put you to the test this year.

MR. STOUT: That's true. You're just afraid I'll (inaudible).

MR. TRIPLETT: Mr. Chair, I nominate Jay Stout to be Vice-Chairman.

MR. TORNETEN: I will second that.

MS. BRUCE: Donald Fletcher.

MR. FLETCHER: Yes.

MS. BRUCE: Steve Landers.

MR. LANDERS: Yes.

MS. BRUCE: Ralph Triplett.

MR. TRIPLETT: Yes.

MS. BRUCE: Jay Stout.

MR. STOUT: Well, since he did, I will, too. Yes.

MS. BRUCE: Thank you. Patrick Riley.

MR. RILEY: Yes.

MS. BRUCE: Bill Torneten.

MR. TORNETEN: Yes.

Next is the setting the dates for 2006 Council meetings. The last couple of years we've done this, we haven't realized the meetings, but I guess we still need to

canceled our April meeting this year and we can do that again, if there are no issues.

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go through the process and set some dates.

Would the November meeting -- I guess that wouldn't qualify as a 2006 meeting, would it? So we would need to go ahead and schedule a 2006 meeting the first part of the year, recognizing that it may not come to pass, but -- and it may, we very well could have some issues left over.

MR. STOUT: We set four.

MR. TORNETEN: We set four, right.

MR. JOHNSON: The last couple of years, we've only been setting two because you've cancelled those.

MR. TORNETEN: We only set two?

MR. STOUT: I thought we set four.

MR. JOHNSON: You've set four and about two years ago, because we had to cancel so many, last year you only set two.

MR. TORNETEN: Okay. I couldn't remember, either. Well, I guess we can always set an additional meeting if we see a need, can we not?

MR. JOHNSON: I think it would be wise to go ahead and set two again, and we

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MR. TORNETEN: Okay.

MR. JOHNSON: You definitely need the one late in the year, the September meeting.

MR. TORNETEN: Right.

MS. BRUCE: Using the dates you set from last year, I tentatively wrote in May the 18th, on a Thursday, and September the 14th, on a Thursday. That's just using the same weeks that you used last year. That is not anything that has to be set.

(UNIDENTIFIED): That's May 18th in 2006?

MS. BRUCE: May 18th in 2006, that's on a Thursday. That's the third Thursday in May, which is the date you used last year. That's the only reason I put that on here.

MR. TORNETEN: My calendar doesn't look that far into the future, but does anybody see any conflicts with, I guess, May 18?

MS. BRUCE: May 18th and then September the 14th.

MR. STOUT: I thought you said
the 4th. The 14th?

MS. BRUCE: The 14th, that's on a
Thursday, the second Thursday of September.

MR. TORNATEN: I'm not hearing
any problem with those dates.

MR. STOUT: It does call for a
vote, so I move we approve those two dates
with them being here in Oklahoma City, both
times.

MS. READY: Both times in
Oklahoma City?

MR. STOUT: Yes.

MS. READY: In this room?

MR. STOUT: In a warmer room than
this.

MS. READY: That shouldn't be a
problem.

MR. TORNATEN: We'll bring you a
coat next time, how's that?

MS. BRUCE: Do we have a second?

MR. TRIPLETT: Second.

MS. BRUCE: Okay. For May 18th
and September the 14th here in this room at
9:00. Donald Fletcher.

C E R T I F I C A T E

STATE OF OKLAHOMA)
) SS:
COUNTY OF OKLAHOMA)

I, CHRISTY A. MYERS, Certified

Shorthand Reporter in and for the State of
Oklahoma, do hereby certify that the above
proceedings is the truth, the whole truth,
and nothing but the truth; that the
foregoing proceedings were tape recorded
and taken down with shorthand by me and
thereafter transcribed under my direction;
that said proceedings were taken on the
15th day of September, 2005, at Oklahoma
City, Oklahoma; and that I am neither
attorney for nor relative of any of said
parties, nor otherwise interested in said
action.

IN WITNESS WHEREOF, I have hereunto
set my hand and official seal on this, the
25th day of October, 2005.

CHRISTY A. MYERS, C.S.R.
Certificate No. 00310

MR. FLETCHER: Yes.

MS. BRUCE: Steve Landers.

MR. LANDERS: Yes.

MS. BRUCE: Ralph Triplett.

MR. TRIPLETT: Yes.

MS. BRUCE: Jay Stout.

MR. STOUT: Yes.

MS. BRUCE: Patrick Riley.

MR. RILEY: Yes.

MS. BRUCE: Bill Tornaten.

MR. TORNATEN: Yes.

It just came to my attention, Elzie
Smith never made it, did he? Did he come
in and I didn't notice? I hope nothing
happened to him on the way.

Well, unless there is any further
discussion, that's the last item on the
agenda and we'll adjourn.

(End of Proceedings)

**Resolution of the
Solid Waste Management Advisory Council**

Whereas, the Oklahoma Solid Waste Management Act (27A O.S. §2-10-802(E)) requires the DEQ to annually report to the Solid Waste Management Advisory Council its income from solid waste fees and its expenditures of those monies during the previous fiscal year; and

Whereas, this Council is required to develop comments comparing income with program expenditures;

Be it therefore now resolved that this Council finds solid waste fee income to be adequate to support the solid waste management programs for which it was originally intended, and

Be it further resolved that:

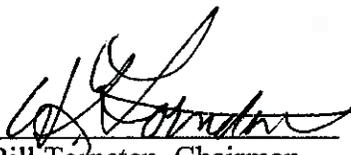
This Council supports the statutory direction that solid waste fees, and other environmental fees such as those deposited to the Waste Tire Recycling Indemnity Fund, be used only for the purposes for which they were collected; and

Since the Legislature has continually directed DEQ to use solid waste fee revenue for purposes other than originally envisioned, it has forced DEQ to reduce budgets in programs previously funded by the solid waste fees that were designed to directly help county and local governments improve solid waste management; therefore,

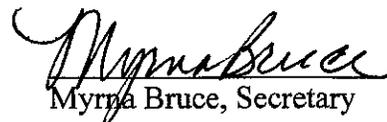
This Council strongly endorses DEQ's request for appropriations for those programs that beneficially reuse solid waste and help make local improvements where the needs are the greatest.

Adopted by majority vote in open meeting this 15th day of September, 2005.

ATTEST:



Bill Torneten, Chairman
Solid Waste Management Advisory Council



Myrna Bruce, Secretary

*Dis to
Gammey
9-15-05*



Handwritten notes in the bottom left corner, possibly including the number '110'.

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