



MEMORANDUM

TO: Susan Hutton, Chair, Environmental Commission
John Mirsky, Member, Environmental Commission

FROM: Howard S. Lazarus, City Administrator

SUBJECT: Response to Additional Questions - Solid Waste Fund/Program Update – Additional Questions 02/21/18

DATE: April 4, 2018

This memorandum is the second of two documents provided in responses to questions, specifically those posed on February 21, 2018. Please contact me if you have any additional questions or if you need further information.

1. What are the statutory obligations for setting aside restricted funds and how dollars in the fund are to be spent?

Response: Only \$180K is restricted on the June 30, 2017 balance sheet. Restrictions come from outside legal restrictions (i.e. state law, bond covenants) and in this case, the \$180K is what is invested separately in the perpetual landfill account set up decades ago under direction of the State. The other amount listed as “Net investment in capital assets” is not a restriction. It is the amount of net assets unavailable to spend because it represents the net value of capital assets on the books. One could only spend that if they liquidated all the assets and attempted to convert them to cash. This “Net Investment” line is a GASB standard and GAAP accounting. We would not receive a clean opinion without this presentation. (Please refer to the attached)

2. How much money is currently in the restricted fund and, if that differs from the statutory amount, why is there a difference?

Response: Please see the response to Question 1 above. There is no difference.

3. How much currently in the fund is related to the closed landfill and how much to other solid waste-related activities, facilities or personnel (absolute amounts and/or percentages)?

Response: There is a liability set up for the landfill post-closure costs in the amount of \$6,549,149. Unrestricted fund balance is not apportioned by activity.

4. When and under what circumstances is additional money put in the restricted reserve? Beyond statutory requirements, who decided (-es) that any additional funds are restricted? In other words,

are any of the funds set aside in the restricted fund there based on a voluntary designation by City staff or Council?

Response: Restrictions only occur for legal reasons as stated above. Again, only \$180K of the fund balance is restricted. There are no other funds set aside.

5. How much interest was earned on the fund last year and is it all required to be kept in the restricted fund?

Response: Interest earnings were \$507. The interest earned is not required or currently restricted in the fund.

6. What is the condition of the closed landfill, what issues / problems could realistically occur in the future, and when, if ever, does the City's liability associated with the old landfill go away?

Response: The city has a closed landfill with offsite contamination. The landfill site also has a landfill gas to energy system where the city owns the collection system and blower skid and delivers gas to a third party that generates electricity and sells it to the grid. The condition of the landfill is fairly stable where most of the settling has occurred, the integrity of the cap has been evaluated and remains in very good condition, and we have a very good understanding of where the contamination has gone and how to manage it. We recently replaced the gas collection blower system that creates the vacuum for landfill gas collection. We have performed a capture zone analysis that demonstrates we are capturing any contamination currently leaving the site. Recent sampling north of I-94 show that there is no detectable dioxane in the new sampling locations.

Many bad things can happen at landfills. Problems that could realistically occur include MDEQ requiring additional response activities at the site where we may have to chase low concentrations of 1,4 dioxane and install wells and pipelines for pumping additional groundwater; identification of emerging contaminants that were previously undetected that require additional investigation and/or remediation; and failure of all or a portion of the gas collection system and methane migrating off site into neighboring basements.

The Solid Waste Millage is used to fund the remediation and other regulatory issues for the landfill and offsite contamination. As part of our regulatory process to legally close the landfill, we are required to generate an estimate of the costs that MDEQ might incur if the city were to go bankrupt and the state had to take over the clean-up. We did this calculation (@\$6 million over 30 years) and under GASB recognized this as a liability, which has an effect of reducing available fund balance. This however, is not our legal requirement for financial assurance. We currently have two \$1 million letters of credit to cover on-site and off-site liabilities. The State is rewriting the solid waste regulations for the state and we are working to develop a local government financial assurance test to reduce ongoing city costs purchasing letters of credit. We are also evaluating mechanisms to reduce the accrued liability under GASB.

The current regulatory structure at MDEQ under part 115 assumes a 30-year timeframe for monitoring after legal closure. Though the City's landfill has been "closed" for a number of years, the MDEQ has not declared it legally closed due to a final regulatory requirement still needing to be completed, so this 30-year monitoring timeframe has not yet commenced. Ultimately, the City liability will only go away when the contamination off site is below all applicable regulatory criteria and the contamination leaving the

landfill meets those same criteria. We should assume that the City will be a liable party for a very long time.

- 7. Similar to point #4 above but the opposite, can the City decide to move restricted funds, including interest earnings, out of it and into the unrestricted or another (e.g. the general) fund if it was determined that the amount in reserve was deemed in excess of what is needed, for example due to reduced or eliminated risks? If so, is that likely, what is the process for that and when might that occur?**

Response: We have \$180k in restricted funds, which is not related to interest earnings, and we would need an outside legal restriction change to alter this amount. With respect to moving funds out of Solid Waste (i.e. the aforementioned interest earnings), the answer is “no.” We would have to rebate any excess back to taxpayers before we could give any “excess” away to other funds as this fund’s revenue is primarily driven by a special millage.

cc: C Hupy
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