

RESOLUTION 129 -13

Introduced By Supervisors Raymond, Collyer, Lewza, Jenkins, A. Johnson, Peck and Wright

APPROVING PARTICULARIZED FINDINGS PURSUANT TO  
SECTION 120-W OF THE GENERAL MUNICIPAL LAW REGARDING  
THE PRIVATIZATION OF THE COUNTY LANDFILL FACILITY

WHEREAS, the Saratoga County Board of Supervisors has provided environmental infrastructure to serve the needs of residents, businesses, industries, and institutions of the County in order to protect public health and the environment, enhance the quality of life, and promote economic development; and

WHEREAS, part of the environmental infrastructure was the development of a landfill facility in the Town of Northumberland in 2001 following a decade of County investment in the identification of alternative sites, evaluation of impacts through the State Environmental Quality Review Act, and adjudicatory hearings and permitting through the State Department of Environmental Conservation, and

WHEREAS, the landfill was constructed to meet all the highest standards for protection of groundwater and surface water to preserve public health and the environment, and

WHEREAS, upon completion of the landfill facility this Board decided not to open the facility and instead to hold it as an insurance policy for future use; the County has maintained the facility since that time while regularly evaluating the potential for opening the facility, most recently through the process to update the County Local Solid Waste Management Plan; which planning process identified several options for the landfill facility, and

WHEREAS, this Board decided by Resolution 30-12 to initiate a Request For Proposal [RFP] process to identify potential interest by private companies in the landfill facility which could recover the significant investment made by the County and which will help the County continue to stabilize property taxes through the provision of a means for the safe and financially sound disposal of non-recyclable waste which will in turn provide stability for residents, businesses and industries to prosper in Saratoga County, and

WHEREAS, this Board received from its consultant Gerhardt LLC a draft RFP and on April 17, 2012 the Board approved Resolution 96-12 directing the issuance of the Draft RFP for the potential privatization of the Saratoga County landfill facility pursuant to the procedures established in Section 120-w of General Municipal Law and rescinding Resolution 112-99 which had previously established a policy that the County landfill facility would only be used for the

disposal of solid waste generated in Saratoga County and that the landfill would only be owned and operated by the County, and

WHEREAS, the Draft RFP was available for public review at the County Department of Public Works, the Northumberland Town Hall, the Ballston Spa Public Library, the Saratoga Springs Public Library, was posted on the Saratoga County website and an invitation for public comment was officially noticed on April 20, 2012 in The Saratogian, on April 23, 2012 in The Daily Gazette, on April 25, 2012 in the New York State Environmental Notice Bulletin, and on May 2, 2012 in the New York State Register, and

WHEREAS, such public comment period was open through July 2, 2012, and the comments received on the Draft RFP and responses to the comments are contained in Appendix B in the Final RFP, and

WHEREAS, this Board considered the comments received and approved the issuance of a Final RFP by Resolution 158-12, and

WHEREAS, the Final RFP was available for public review at the County Department of Public Works, the Northumberland Town Hall, the Ballston Spa Public Library, and the Saratoga Springs Public Library, was posted on the Saratoga County website, and was officially noticed on July 20, 2012 in The Saratogian, on July 20, 2012 in The Daily Gazette, on July 25, 2012 in the New York State Environmental Notice Bulletin, and on August 1, 2012 in the New York State Register, and

WHEREAS, each of the companies which submitted final proposals attended the mandatory landfill facility site visit on August 28, 2012, and

WHEREAS, final proposals were received on October 9, 2012 from New England Waste Services of N.Y., Inc. [Casella Waste Systems Inc], Capital Regions Landfills Inc. [Waste Connections, Inc], and Finch Paper LLC, and

WHEREAS, Section 120-w of NYS General Municipal Law provides for the conduct of a public hearing in regard to the proposals received for the privatization of the landfill facility and for the potential sale of the County property and the Board of Supervisors approved holding such a public hearing by Resolution 89-13, and official public notice of said public hearing was published on April 17, 2013 in The Saratogian, on April 19, 2013 in The Daily Gazette, on April 24, 2013 in the NYS Environmental Notice Bulletin, and on May 1, 2013 in the NYS Register, and

WHEREAS, the Draft Report on Proposals for the Potential Privatization of the County Landfill Facility was distributed to the Board of Supervisors on May 7, 2013 and posted on the County website on May 8, 2013, and

WHEREAS, the public hearing was held on May 15, 2013, and

WHEREAS, the single comment made at the public hearing by one of the RFP Respondents, and information submitted by said Respondents at and after the public hearing have been reviewed and considered by the County, and a Final Report on the privatization of the County Landfill Facility was prepared with this Board's Landfill Privatization Sub-Committee

carefully considering all information that has been submitted and evaluating the costs and benefits of all proposals, and such Report includes proposed Particularized Findings prepared pursuant to the provisions of Section 120-w of New York State General Municipal Law; now therefore be it

RESOLVED, in conformance with Section 120-w of NYS General Municipal Law, the Saratoga County Board of Supervisors hereby approves the following Particularized Findings with respect to the proposals received in response to the County's landfill privatization RFP as a basis for approval of an agreement to sell the County Landfill Facility:

1. The proposals by all three companies would have the capability to meet the minimum goals established by the County: to provide safe, economically stable disposal of non-recyclable waste generated in Saratoga County and neighboring counties; and to obtain a return on the County's initial \$5.8 million investment in the landfill facility.
2. All three companies have an acceptable track record of compliance with environmental regulations.
3. All three companies have an acceptable track record for working cooperatively with host communities. Finch has distinguished itself in this regard with a comprehensive, long established community relations and complaint response protocol with the Town of Northumberland, where both the Finch landfill and the County landfill are located.
4. All three companies have an acceptable track record for responsiveness to operational issues.
5. All three companies documented their financial viability and ability to secure adequate funding.
6. All three companies have demonstrated operating experience sufficient to ensure that traffic, noise, odors and other potential impacts can be adequately managed.
7. Casella, the parent company of NEWSNY, has extensive positive experience with public-private landfill partnerships in New York State. In addition, their proposal is innovative and forward looking. However, their proposal would not generate the long term revenue of the Finch proposal. In the future, it may be possible that NEWSNY's creative ideas on recovery of organics and a front end anaerobic digester for the planned wastewater treatment facility could be integrated with the long term development of the landfill.
8. Both Finch and CRL offered to share energy and other potential future revenues on a 50% - 50% basis.
9. The amounts offered for the County's landfill operating equipment were considered but they are not a material consideration for the County's decision.
10. The annual revenue payments proposed by all three companies will depend on market conditions.
11. The proposal by Finch for the base purchase [\$4 million] plus the second payment upon approval of the valley fill [\$2 million] plus the annual community payments [\$2 million] plus the profit sharing [\$31 million] has a combined total financial value that is higher and more reliable than the other proposals, especially when the CRL proposal is evaluated in terms of reliability and likelihood of success.

12. An updated estimate by Finch indicates that an additional 50,000 tons per year of capacity can be made available for municipal solid waste (msw) due to the success of their initiative to recycle and classify their sludge for alternative daily cover. This will equate to the potential for an additional \$425,000 per year for the County, and \$7.7 million for the County over the life of the facility.
13. The Finch profit sharing proposal incentivizes their performance and simultaneously benefits the County.
14. The Finch proposal provides a superior facility design and efficient landfill cell development plan. Utilization of the existing and approved footprints will be coupled with a future “valley fill” proposal that optimizes capacity and makes the most efficient use of the land. The “valley fill” will only encompass approximately 6.5 acres of new cell footprint, but in fact that area was engineered for berms and drainage as part of the original construction of both landfills. This is significantly more efficient and desirable than the CRL proposed expansions plans.
15. The Finch development plan is confined to the existing and approved landfill cell footprints for both the County and Finch landfills. This means that for the estimated 20 year life of the combined facility there will be no construction on previously undisturbed areas.
16. The Finch proposal has the advantage that all construction will occur on land currently owned by either the County or Finch.
17. The Finch proposal will provide significant support to an important local industry with approximate local employment of 2,200 workers.
18. The total expansion by CRL would result in the development of 204-215 cell acres, a very large landfill complex. Although this could be calculated to produce greater revenue than the other proposals, estimated by CRL to be up to \$80 million, or higher, over the life of the landfill, the development of the expansions is predicated on the completion of an extensive SEQRA review, permitting, adjudicatory hearings, and likely opposition from the public and potentially the Town of Northumberland. The CRL expansion proposals also assume acquisition of the Finch landfill and other land not owned by the County. Finch objected to CRL’s designation of the Finch landfill for expansion by CRL. It is speculative at best to assume that such approvals would be obtained and therefore it would be imprudent to make an award on such a contingent basis. Although CRL subsequently moved away from the total expansions proposal, it still appears to be an indication of their vision for the long term development of the landfill.
19. The proposal by CRL for a base purchase and Expansion Area 1, which is approximately equivalent to the limited expansion identified and evaluated by the County, could theoretically generate \$37,426,350 [County estimate] to \$41,792,695 [CRL/Waste Connections estimate]. However this proposal would still be contingent upon resolution of the requirements of the Town Local Laws and, completion of whatever is required by the involved agencies for satisfaction of the SEQRA and associated adjudicatory hearings, and completion of all permitting required by NYSDEC. Although this would be a smaller scale expansion than their proposal for 204-215 cell acres, it would still double

the size of the current County landfill and may well also be subject to significant public opposition and delay. This would be a time consuming process with an uncertain outcome and it would be speculative to assume that such approvals would be obtained and it would therefore be imprudent to make an award on such a contingent basis.

20. In comparing the proposed 25-27 acre CRL expansion with the proposed Finch valley fill, a fair, commonsense analysis based on sound engineering and precedent in New York State clearly concludes that the proposed Finch valley fill is technically feasible, it impacts less land and land that has already been altered, and it results in a smaller landfill footprint.
21. In any case, the expansion proposals by CRL, either the limited expansion or the totality of all their expansion proposals, and the resulting larger scale landfill are not consistent with the County's intent for the future development of the landfill facility, regardless of the revenue projected by CRL for the expansions.
22. The CRL proposal includes a condition that they would subtract from their base offer any cost to repair the liner system, even though they were provided extensive information on the integrity of the liners, leachate collection system, and data monitoring systems. Such a condition is not consistent with the specific provisions and requirements of the County's final RFP.
23. The CRL proposal also included a qualification on the cost of leachate disposal—asking that the County either pay the cost [which would substantially reduce the value of their proposal] or protect them from “dramatic” price increases. Such a condition is not consistent with the specific provisions and requirements of the County's final RFP.
24. The Town Board of the Town of Northumberland at its regular meeting on June 13, 2013 unanimously approved Resolution 45 of 2013 recommending that the Saratoga County Board of Supervisors enter into a privatization contract with Finch. The Town Board's resolution sets forth certain determinations by the made by the Town Board in support of its recommendation, including:
  - Among the three proposals, the Finch plan will offer maximized benefits to the Town and County, while minimizing impacts on the environment and local Community in Northumberland, and thereby best serves the interests of the Town and County.
  - The Town Board supports the Finch plan which limits development to the existing footprint of the Finch landfill and the County landfill, including a valley fill between the two landfills.
  - The Finch plan is a superior design which optimizes capacity using existing facilities thereby limiting landfill size and environmental/transportation impacts.
  - The Town Board would oppose plans such as those initially proposed by CRL which would expand the landfill beyond (and potentially substantially beyond) the footprint of the Finch and County landfills.
25. The Finch proposal meets all the requirements of the County's RFP and the Finch proposal is best suited to provide the greatest long term benefits to the citizens of

Saratoga County through the consolidation of the existing Finch landfill with the County's landfill. The Finch proposal would be the most advantageous for the County.

26. The Finch proposal will produce the highest net revenue over the life of the landfill, when compared to the proposal by NEWSNY and the base proposal by CRL. In consideration of any alternative financial analysis or contention by CRL, evaluation of all other criteria as set forth herein leads to a clear conclusion that the public interest will be best served by an award and sale of the facility to Finch.

BUDGET IMPACT STATEMENT: No budget impact.