

**Minutes
NWSWD Charter / Ordinance Committee Meeting
July 5, 2016**

The Charter/Ordinance Committee of the Northwest Vermont Solid Waste Management District held a meeting on Tuesday July 5, 2016 at the District Offices, 158 Morse Drive Georgia, VT at 5:30 PM.

The meeting was called to order at 5:37 PM.

Supervisors Present:

Barry Kade
Jim Richards

Supervisors Absent:

Amy Mashtare
Jim Lintereur

Others Present:

John Leddy, Executive Director
Al Voegelé, Full Board Member

Charter/Ordinance Committee Minutes

1) Review Agenda:

No changes or additions.

2) Vote: Approve Minutes of October 6, 2015.

Only one member of the committee attended this meeting either due to not being able to attend or due to the fact that the committee members have changed since the last meeting. Mr. Kade is the only member in attendance at the meeting of which the minutes needing approval were from. An Abstention from Jim Richards. Mr. Kade made a motion to accept the minutes as written. He was in agreement and passed the motion.

3) Nominations & Vote to elect Chair Person and Vice Chair

Mr. Richards nominated Mr. Kade as Chair Person. Mr. Kade nominated Mr. Richards as Vice Chair. Mr. Kade made a motion to close nominations. All were in favor and the motion passed. Voice Vote Held with Mr. Kade elected as Chair and Mr. Richards elected as Vice Chair.

4) Review Procedures and/or Create Procedures related to Article IV Penalties and Civil Enforcement Section of the Illegal Dumping and

Burning Ordinance, including removal of licensing. (the following is an actual transcript of the conversation).

- Mr. Leddy: We are looking at procedures. I think I heard Barry giving a little bit of background, procedures for our waste ordinances. Our ordinance that is titled the.
- Mr. Kade: It is enforcement procedures.
- Mr. Leddy: Enforcement procedures, well yes. And as I was looking at it, our Dumping and Burning Ordinance, we will call it, says that a solid waste procedure shall, solid waste procedure in the district shall utilize procedures, here we go.
- Mr. Kade: Basically, whether or not it says that, if you don't have procedures and you are conducting a hearing to determine a penalty against somebody if you don't have procedures whatever you do is arbitrary.
- Mr. Leddy: Right. For the dumping and burning ordinance though, we...
- Mr. Kade: Except for the dumping and burning, we don't really need procedures and it will be good because the hearing is by the judicial bureau. We should have a procedure if it is not already in the ordinance for appointment of the enforcement officer, and I would suggest also duplicating what is in the judicial bureaus rules of having, I would have the executive director review a complaint just to make sure all the I's are dotted and the T's crossed before sending it on and if something is astray that is significant having the power to dismiss it without prejudice and then the enforcement officer can rewrite it and reissue it but it would have to be reissued which could be I guess just say by a certified mail.
- Mr. Leddy: One thing I wanted to bring up relating to our dumping and burning ordinance.
- Al Voegel : Can you tell me where it is in this thing?
- Mr. Leddy: The one I gave you is our solid waste ordinance.
- Mr. Kade: Oh, so this is separate? It is not in here?
- Mr. Leddy: No it is not. We have two ordinances. This one is the solid waste ordinance which required is what we really need to talk about because in this ordinance, it sets up the board to act as a judicial body to remove a hauler's license.
- Mr. Kade: So it is in the ordinance for it to be the board?
- Mr. Leddy: Yes.
- Mr. Kade: Okay so then there is.
- Mr. Leddy: However in the dumping and burning ordinance, it says "Pursuant to..
- Mr. Voegel: Is that in line two?
- Mr. Leddy: It is, yes. So going back to the dumping and burning ordinance...it says, "This ordinance is a civil ordinance and enforcement shall follow the procedures as described in 24, VSA Section 1974-A.
- Mr. Kade: That is...who shall sending it to the...
- Mr. Leddy: Traffic court, right.
- Mr. Richards: But it excludes the two things that you were just talking about.
- Mr. Kade: Two things?
- Mr Richards: Something about establishing or the enforcement officer and then for the to designate the executive director or someone else to review complaints.
- Mr. Kade: Right. I would say it should be the executive director or the executive director's designee who may not be the enforcement officer.

- Mr. Leddy: The enforcement officer. Those are two additions. Those are administrative procedures-not necessarily ordinance changes but administrative procedures, okay. So those we will make up. One thing that I would also like to investigate, and it might be a procedure is using and maybe this is part of designating the enforcement officer but utilizing other agencies so the sheriff's department or as the district's enforcement officer.

- Mr. Kade: Yeah I remember having a conversation last fall with Barry, Barry Domina not talking to myself [**Laughter**] and he was talking about getting the sheriff to be doing it. I don't remember. I think he was going to be having a conversation with them. Do you know if that ever happened?

- Mr. Leddy: We started and he has had conversations with individual sheriffs and deputies to back him up in certain instances but we haven't gotten down the road of negotiation of what it would cost to contract them as an enforcement agency in the district.

- Mr. Kade: I think that what he was hoping is if they are driving around and they see a burn barrel, they would issue a summons.

- Mr. Leddy: And he has done that and not to enforce our own ordinance but their state law against burning of trash. And every Vermont law officer has the ability to ticket for that offense and so he was educating the sheriff's department about that.

- Mr. Richards: And I assume then also dumping of trash.

- Mr. Leddy: Yep so he was pursuing that.

- Mr. Kade: But what are the penalties? Aren't the state penalties more onerous? I mean isn't the state regulation designed for bigger fish?

- Mr. Leddy: It is designed for bigger fish. It is designed for bigger fish but the language is written that it can be enforced on anybody.

- Mr. Kade: Okay scale then if somebody has a 55 gallon burn barrel and they are burning paper trash which is not really a big deal and the sheriff issues a ticket under the state law who would be prosecuting it? Would it be the DEC?

- Mr. Leddy: It would likely be, yeah.

- Mr. Kade: It wouldn't be us.

- Mr. Leddy: No, no.

- Mr. Voegelé: What is DEC?

- Mr. Kade: The Department of Environment Commission, the solid waste division.

- Mr. Voegelé: And not the State's attorney?

- Mr. Kade: That or the state's attorney and they might say you know.

- Mr. Voegelé: Forget it.

- Mr. Kade: Forget it. So I think it might be better to encourage them to issue a ticket under our ordinance.

- Mr. Leddy: So that is the next step. You know we were utilizing that because it was what was already readily available to all state law enforcement agencies.

- Mr. Kade: Right, so what we will have to do is either change the, I think we would have to change our ordinance you know.

- Mr. Voegelé: And also limit the amount of fines with it.

- Mr. Kade: No just change the ordinance to designate all law enforcement officers in Franklin and Grand Isle County as enforcement officers are authorized to issue municipal, judicial bureau tickets on our behalf for violation of our ordinance.

- Mr. Voegelé: And will that limit how much can be charged or fined?
- Mr. Kade: Yeah.
- Mr. Voegelé: \$50 as opposed to \$500?
- Mr. Kade: No it is whatever our ordinance says.
- Mr. Voegelé: Are you sure? I think there is a limit on judicial bureau fines.
- Mr. Kade: Yeah there is a limit on judicial bureau fines and I think it is \$500 or \$1000.
- Mr. Leddy: It is and we have changed our, it is \$500 max fine.
- Mr. Voegelé: Okay.
- Mr. Leddy: But that is the same as what we currently have in our ordinance.
- Mr. Voegelé: Right.
- Mr. Kade: Now we will have to go through the municipal bureau regulations not the handbook that advises it but look at the actual regulations to see if we can just say all law enforcement officers or designate you to you know to put together a list of whether it has to be you know named individuals and if it is named individuals then whoever you can get that is willing to do it you put their name on the list.
- Mr. Leddy: Okay.
- Mr. Voegelé: Now who represents us when we go for a judicial bureau? Can it be a lay person or do we need an attorney?
- Mr. Richards: it would be the enforcing officer. So it will be the person who gave the ticket, issued the ticket.
- Mr. Leddy: And where the municipal bureau will look for it? Whether we will have to, whether we can name all law enforcement agencies?
- Mr. Kade: Whether it can be a blanket or whether it needs to be individual names?
- Mr. Leddy: Where will I find that, municipal bureau?
- Mr. Kade: It would probably be in the statute.
- Mr. Leddy: Okay.
- Mr. Voegelé: Which one?
- Mr. Kade: The one that is 24 VSA we'll release that talks about it.
- Mr. Leddy: Oh, okay. All right.
- Mr. Kade: Well that is a question that the league should be able to answer really quickly, easily. I mean that is probably is in here.
- Mr. Leddy: In this?
- Mr. Kade: Yeah.
- Mr. Voegelé: And I have, okay
- Mr. Leddy: So that takes care of the dumping and burning. Now four, as we said the solid waste, the district solid waste ordinance which is the one that I copied and passed out. I will start at what prompted all this. If we move to Article 3 which is at the bottom of Page 3 under regulation of solid waste – ‘In accordance with our district by-laws the district is regulated by the board of the northwest district for the orderly provision of waste management such administrative procedures as are necessary and appropriate to effectuate the purposes and aims of this ordinance shall be promulgated by the board. Such procedures shall be consistent with the district plan, the provisions of the ordinance and with state and federal laws and additional administrative procedures shall be promulgated here and no later than 30 days after the effective date of this ordinance.’
- Mr. Kade: Which is passed by you know.

- Mr. Leddy: Okay. So there are currently no procedures that pertain to the administration of this.
- Mr. Kade: No, the next sentence is, 'The board shall implement such measures as they deem necessary' and it says, 'Shall implement as they deem necessary to provide for public education of the requirements of this ordinance.' So if we were to find someone in violation, a hauler in serious violation and they said, "Oh but there was no education. Nobody ever told me that. There was no education procedure." That could give us a problem.
- Mr. Leddy: Okay.
- Mr. Kade: So we really do need to have you know at least send a pamphlet to all of them explaining once we have got it down, what the procedures are, what is required of them and what can cause them to lose their license.
- Mr. Leddy: Okay. So for the latter two we in the licensing package that we send out to all haulers that are licensed we tell them that haulers are subject to the solid waste district ordinance and send them, we don't send them a copy of it anymore but we send them to where they can find it and then they certify that they had read it. We could probably simplify it by giving them the quick fact sheet.
- Mr. Kade: I think we have to give them a quick fact sheet and the board shall implement. So I think the board should approve it whatever the fact sheet is.
- Mr. Leddy: Okay I also note that when this is the last time that this ordinance was rewritten in 2002.
- Mr. Kade: Not that recently.
- Mr. Leddy: Yeah, [Laughter] to mandate recycle bill, recycling in the district.
- Mr. Kade: Oh yeah I saw that there was something about recycling that was in different type face.
- Mr. Leddy: Yes and that there is quite a bit of education at that point about recycling being mandatory, the fines and that was done by the board about the ordinance and about the district's authority to regulate and to mandate recycling. And I can look back and find invitations to haulers to the board meeting to discuss this ordinance and advertisements made.
- Mr. Kade: I think that this should be maybe that is it already but there should be a folder like that with everything that would answer any objection that anybody would come up with it at a hearing.
- Mr. Leddy: Okay.
- Mr. Kade: You know all of the educational materials, etc. and showing what was approved by the board, etc.
- Mr. Leddy: Okay. I mean in terms of board education that doesn't need to be an ongoing educational campaign does it?
- Mr. Kade: No
- Mr. Leddy: Okay. So that one-time education will satisfy.
- Mr. Richards: What we would need to do with any new hauler?
- Mr. Kade: Yeah a new, I think it is a part of the new. It is not a big deal to put whenever they renew their license to send them a packet and have it online.
- Mr. Leddy: Which we do.
- Mr. Kade: Yeah.
- Mr. Kade: How often are they renewed?

- Mr. Leddy: Annually.
- Mr. Kade: That is plenty often [Laughter] in terms of telling them. So I think that the administrative procedures should detail which violations can result in the loss of a license or suspension. I mean then we have to, should there be.
- Mr. Voegelé: When we say administrative procedures what page are you talking about?
- Mr. Kade: I don't know.
- Mr. Voegelé: Top of page 4. That is the reference.
- Mr. Leddy: That is the reference to the administrative procedures which currently don't exist.
- Mr. Voegelé: Don't exist.
- Mr. Kade: We don't have them so there is no...
- Mr. Voegelé: Okay.
- Mr. Leddy: However the parts of the, there are numerous parts of the ordinance itself that outline well in Article 4 the collection of solid waste, it outlines first of all the requirement to be licensed which is that annual process renewal, then responsibilities of licensees.
- Mr. Kade: Oh what I am looking at here section 4.5 does seem to have administrative rules. Except I think of anything any provisions of this ordinance. I guess the administrative I guess separate from this the administrative rules can say what ordinance violations can result in what type of penalty. One thing is a person's license cannot be renewed until they can form to something. A person's license can be suspended either for a period of time or until they correct or it can be revoked. Revoked means that is if you are out of business. That of course would have to be very serious and I would say you know likely you know the third violation in a year or something like that. And of course operating without a license is a violation so.
- Mr. Leddy: And that would be violating.
- Mr. Kade: So if they are under suspension and they operate that operation is a violation and then if they continue again that is the third.
- Mr. Leddy: And.
- Mr. Kade: And I think also if it is something that really grows like if we find out that a hauler is accepting hazardous waste and dumping it into the river you know.
- Mr. Voegelé: And do we have classes of violations.
- Mr. Kade: That is what I am getting at.
- Mr. Voegelé: Burning papers that's mean it but throwing hazardous waste into the river.
- Mr. Kade: Yeah you have language about you know what causes a serious threat to health on the environment.
- Mr. Leddy But also I mean I think what would be more likely to encounter (a) someone who is a hauler who is unwilling to recycle or a hauler who is unwilling to register or to license themselves?
- Mr. Kade: If they are not licensed then they are operating without a license and they are subject to that penalty.
- Mr. Leddy: Okay, the \$500 for each day.
- Mr. Voegelé: What is drawing concern in this?

-Mr. Leddy: Well those two which are those are items that we have recently encountered.

-Mr. Voegelé: And what were those examples?

-Mr. Leddy: Well one was a hauler who we have since gotten in line but who was in from High Gate a relatively new town to the district. He was a hauler who we actually had to track down because he is small and he was not licensed. We finally got him the license and then after we got him the license he didn't offer recycling to his customers because they could just drive it down to the transfer station and recycle it for free and so he gave a bit of resistance to that and we got him on board with recycling as well but so those were and they came up just because they were sort of fresh on my mind. The third which is the suspension of where we as a board, a body have talked about suspending someone's license has been from non-payment of our surcharge. So the haulers who have been in consistent arrears to the district for their surcharge and that is where the district has often said, "Oh we should suspend their license and have kind of run up against not run up against but the path forward wasn't as clear as it could have been. Now you know looking at this maybe we can, it is there it just needs to be clarified.

- Mr. Kade: Yeah, I mean I think we need to, we need to have something administratively that says you know a person who is more than 30 days in arrears and has been notified of license suspension if they do not enter into a plan you know to get caught up and to pay all future amounts when due.

- Mr. Voegelé: They just go more than 30 days. They go all the way up to 60 or 90 [Inaudible 00:30:03].

- Mr. Kade: Yeah I mean we thought of what we would of course.

- Mr. Richards: We can trigger it at 30 unless you want it or the same we can even wait. It is at our discretion to wait.

- Mr. Leddy: That way they don't wait until 90 to start thinking about it.

- Mr. Kade: Yeah.

- Mr. Leddy: So Barry had copied or reported to everybody judicial bureau present beyond the administrative bit of sending the letter and informing them of their violation and their right to.

-Mr. Kade: So somebody if we do send somebody a notice of violation that could lead to suspension or revocation of their license is that hearing, I thought I read two different things. Is that by the board or by a committee appointed by the board?

- Mr. Voegelé: It can be either as I read it.

- Mr. Kade: Okay

- Mr. Voegelé: And I am not sure [Cross Talk]

-Mr. Kade: Well if it is a committee appointed by the board I mean then the committee can then the board can appoint the committee before there is any violations and it can be dealt with otherwise the board has to meet after notice of the violation and the person appeals then we would have to have a meeting to you know.

- Mr. Leddy: That is where the 30 days could kick it into effect. That way we could look at all you know possible license suspensions.

- Mr. Voegelé: You know my concern about this is that we would then arrest the people who know us but it is quite long and.

- Mr. Leddy: But when you look at the list of folks that are in the 90-day category

- Mr. Voegele: Approximately it's five or six of them.
- Mr. Leddy: I'd say five
- Mr. Voegele: Yeah.
- Mr. Leddy: A couple of those are, either one is the bankruptcy, couple are.
- Mr. Kade: Well how many of them have licenses presently?
- Mr. Leddy: Oh in terms of licenses, no the bankruptcy was a vendor that we sold recyclables to for what year? In 2006 and who owes us that money so it shows up on the books and comes out on the report. I would say that there is only two haulers that are currently licensed haulers that owe us money. The others are accounts that we have. So one of them I think might be a school at Hannaford that, it has to do with our compost collection.
- Mr. Voegele: How can we differentiate accounts versus arrears?
- Mr. Leddy: Because what you typically see in the ANR report is all of our aged receivables. So some of them are from haulers who are in arrears for our surcharge others are folks who are.
- Mr. Kade: Just owe us money.
- Mr. Kade: We can't suspend the license of Hannaford because they don't have their license
- Mr. Leddy: They are customers of ours who just owes us money.
- Mr. Voegele: What we are doing primarily in this conversation is the haulers, right?
- Mr. Leddy: Correct.
- Mr. Kade: Exclusively.
- Mr. Voegele: Right.
- Mr. Leddy: Yes
- Mr. Voegele: And there's only five of them, you said yeah I am down with two Duffy is all I end up and [crosstalk]...
- Mr. Leddy: Duffy's and Burns are the two that stand out. Tuttle was one that was up into the 90-day category however she has worked her way back down. Duffy's does still have a small and out, over 90 days and it is in the hundreds of dollars and Jim Burns still owes us five grand but he is no longer a hauler. That's it his final debt to us.
- Mr. Richards: Do you think we are going to get it?
- Mr. Leddy: I don't think so. [Laughter]
- Mr. Richards: Then let us sue them.
- Mr. Leddy: Pam thinks she will get it but it is a matter of pride for her I think [Laughter]. She will.
- Mr. Voegele: [Inaudible 00:35:04]
- Mr. Kade: The worth it is. The worst. The longer it goes.
- Mr. Leddy: Yeah.
- Mr. Voegele: How long does this [Inaudible 00:35:15]
- Mr. Kade: Up to 5000.
- Mr. Voegele: Up to five so that we can do without a lawyer, right?
- Mr. Kade: Yeah. No, small claims, maybe a five of it.
- Mr. Leddy: Up to five?
- Mr. Kade: Yeah I think so.
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- Mr. Leddy Because I think what he owes us is 5200.
- Mr. Kade: No you go for the 5000 and you hit the 200. [Laughter]
- Mr. Leddy: Yeah.
- Mr. Kade: Rather than have the expense and you know.
- Mr. Leddy: Right, right. That is another.
- Mr. Kade: That is another discussion.
- Mr. Leddy: Yes, but so in terms of procedure we have a procedure for or part of the procedure for beginning the process and then the procedure for saying for the actual hearing if a hauler is found by the board to be in violation of the ordinance by not paying their surcharge we send them notice of their violation, they do not reply or would like to contest it to and they request a hearing as notified then we need a procedure for how to conduct that hearing. That is we can follow this. Barry what are the bits of information passed along with the judicial bureau proceedings?
- Mr. Kade: Well we would have to modify that.
- Mr. Leddy: Right. But this is a good framework.
- Mr. Kade: Yeah.
- Mr. Leddy: Which would set up...essentially...
- Mr. Kade: Basically... but I don't think it's in there that I think we should establish is the district should have the burden of proving by clear and convincing evidence that the violation exists and also talk about what type of evidence is admissible. What I would like to do as a homework assignment, not like to do but you know it is necessary is go through the rules of evidence and see which ones would be relevant and then incorporate them but not by reference. I think we should have them in our rules of procedure you know spelled out.
- An example that I was discussing with John is that hearsay evidence is not admissible. An affidavit however is a form of hearsay evidence and I know that at certain types of admissible not admissible... administrative hearings including those where important matters are at stake at least according to some Supreme Court cases that I remember from a number of years ago an affidavit would be admissible but if the person asks for the right to confront their accuser or the person who wrote the affidavit, you know somebody writes an affidavit that they saw this, this and that you have the right to say, "Well you were drunk that day."
- So you have the right to confront your accuser if an affidavit is admitted and the person objects claiming that they want that and they have the right to question their accuser then the hearing is continued until you know to a future date and if the witness shows up they can testify and if the witness doesn't show up the affidavit is thrown out. You know so I would like to go through the rules of evidence and put together what I think you know would create a fair hearing.
- I mean, I know most municipal attorneys who are putting this together, this kind of thing together, go for what's the minimum due process we can allow somebody that the court won't overturn it and much more interested in being fair rather than assuring that we win cases that we shouldn't win, okay, which in an advantage of not being paid. Okay. So we've got different types. We've got... Oh, I was thinking if a person doesn't pay I mean unless it's like they're just totally not paying anything and taking stuff some place out of state, you know, if somebody is just falling behind a

little bit every month I think then the enforcement would be at their annual licensing. I think maybe a rule would be if a person is more than 90 days in arrears at their licensing they shall be informed that their license will not be issued unless that until they enter into a payment plan that will catch them up in a reasonable time at the discretion of the district, and that they will not fall for other behind.

- And failure to keep up with that agreement is grounds for license suspension and I think that... I mean, I think that covers every kind of situation that we've seen but is there the possibility that somebody will be hauling to some place out of state that doesn't collect for us and will be owing us a significant amount every month and not paying us as not getting anything in which case we would have to have an alternate.
- Mr. Leddy: Right. Well, part of the ordinance says that they, as haulers, need to inform us of where they're hauling their waste and it must be... they can only do so at approved facilities.
- Mr. Kade: Right. Approved meaning approved by who?
- Mr. Leddy: A district designated scale. A district designated scale maybe operated by the district or other persons does needed by the district. Any person acquiring to obtain a hauler's license pursuant to this ordinance shall cause any such vehicle to be waived at either such a district designated scale or any district approved scale both the same. The same says that a hauler may on written request request that the district approve the use of a scale in addition to district does needed scales. So our hauler application currently has facilities that have scales. We ask haulers to certify whether they used those facilities. I mean, it seems like we will need to make it part of the procedure but that would be a certification of these are district approved scales and then other is the request of....
- Mr. Kade: Right.
- Mr. Leddy: ...a addition... a scale in addition to the district designated scales.
- Mr. Kade: So, if somebody designates what facilities are currently approved?
- Mr. Leddy: The Highgate Transfer Station, the Burlington Area Transfer Station, the Williston Transfer Station, the Chittenden Solid Waste District MRF for recyclables and then...
- Mr. Kade: Waste USA? That still open isn't it? Coventry?
- Mr. Leddy: Oh, yes. Yeah, Coventry. So those who drive direct, Coventry.
- Mr. Kade: And then what Casella Hauls... oh, but they weigh it in state before they haul it.
- Mr. Leddy: Yes. So, Casella weighs at the Highgate Transfer Station and then hauls to Coventry and then there is one out of state because the town of Alburgh has been... they bring their waste over to the Franklin County New York facility.
- Mr. Kade: And who reports the weight that they bring with?
- Mr. Leddy: The Franklin County when their landfill reports back to us...
- Mr. Kade: Okay. So then...
- Mr. Leddy: ...for agreement with [crosstalk].
- Mr. Kade: So it's not just a matter of them to bring an approved scale it's also or noted to be approved the scale master or whatever has to agree that they will send reports to us?
- Mr. Leddy: Correct. Correct.
- Mr. Kade: Not to that needs to be in...

- Mr. Leddy: Okay.
- Mr. Kade: ...and the procedure run for them...
- Mr. Leddy: Yeah.
- Mr. Kade: Yeah.
- Mr. Leddy: And in state that's easier because their state law designating that they've got to share that with the local entities but cross borders more difficult. So that was a bit of a tangent but those are... So, it seems like in addition to the procedures, these procedures which are going to alternative...
- Mr. Kade: In minimal, yeah.
- Mr. Leddy: ...to fit our needs and then the two things that you'd indicated, Barry, just if you want to add one was to that we would need to establish...
- Mr. Kade: But the burden of proof is...
- Mr. Leddy: ...clear and convincing...
- Mr. Kade: Clear and convincing. And discuss evidence.
- Mr. Leddy Evidence. Okay. And then we just discussed administrative procedures surrounding or clarifying which facilities shall receive...
- Mr. Kade: Right.
- Mr. Leddy: ...or be authorized to receive waste. I think the whole, as you indicated earlier, the whole hauler licensing procedure should be administrative procedure...
- Mr. Kade: Yeah.
- Mr. Leddy: ...and at the next meeting I will bring our hauler licensing packet and the hauler license form which all haulers fill out currently.
- Mr. Kade: Right. Okay and the procedures should go I think what we should do is go through the various things that our violations and determine what... let's see. Okay, the provision of this ordinance but this ordinance really only applies to things that haulers would do as haulers, right? Well, if a hauler had to burn barrel, you know, a 30 or 50 gallon burn barrel that they were burning paper and to keep warm but outside that would be a violation but it wouldn't be a violation of this ordinance.
- Mr. Leddy: Right.
- Mr. Kade: I mean, is there anything that's in this ordinance which a violation of which should not result in other application or suspension until they fix it or suspension for a period of time.
- Okay. We have to look at this talks or whenever any person engages in conduct which violates any of the terms of this or sections of this ordinance. The board may issue and enforce a solid waste order in accordance with the provisions of 24 V.S.A. 2297A as authorized by Title 2410 and 24 of the statutes including 10 V.S.A blah blah blah such solid waste order may included directive that to each person take actions necessary to achieve compliance with this ordinance to evade hazards created a result of non-compliance and/or to restore the environment to the conditions existing before the violation that really doesn't say or else what but when we have to look at the statutes to see if it what done if they have a penalties. Yeah. And maybe we're required and with seem reasonable for us to issue a solid waste order and if that's me to challenge they'll followed then issue a suspension. Really have to go through look that up.
- Mr. Voegle: Who's going to write all these out?

- Mr. Voegelé: Who's going to write all these out?
- Mr. Kade: I'm hoping John, I think. Well, at least if I'm given minutes that I can... that are, you know.
- Mr. Leddy: Yeah.
- Mr. Kade: Unless Chittenden has something that we can amend.
- Mr. Voegelé: That's where I would look first.
- Mr. Kade: Okay. Section B here is, you know, definitely... achieving incorporated into whatever administrative procedures are. And the border, their administrative designation notify the licensee that it intends to suspend blah blah blah. Okay, so then sees talks about if a licensee fails to correct the violation a request to hearing as noticed pursuant to administrative procedures, which we don't have, within the time provided and said procedures. So that's something we've got to...
- Mr. Leddy: Right. The type of frame.
- Mr. Kade: ...we've got to put together. Okay, specify time period in accordance with the schedule adopted pursuant to regulation by the Board. So, in other words, that's a penalty. You've done this, go sit in the corner for five days or your license is suspended until you do something. Right? You know, and then once we... we receive written notice of compliance normally we instate the license but it doesn't say, doesn't say anything about ratification.
- Mr. Leddy: It does... oh, no. It doesn't. Just suspension.
- Mr. Kade: Okay. I think adding ratification then which I think should be a possibility in the most but only in the most extreme cases that has to be incorporated into the ordinance first then we can't have administrative remedy's that...
- Mr. Leddy: A procedures, yeah.
- Mr. Kade: ...provide for punishment not in the ordinance.
- Mr. Kade: So we have only about 16 years behind here? Oh, no. February... oh, a year ago.
- Mr. Leddy: Well, that was one... so we updated this ordinance for the variable rate pricing structure.
- Mr. Kade: Yeah.
- Mr. Leddy: Noting we would need to come back for this other thing.
- Mr. Kade: So it's '94 that... [chuckles].
- Mr. Leddy: Yes. I think '94's.
- Mr. Kade: Okay.
- Mr. Leddy: That's when the clock started. It's interesting. Well, in the responsibilities of collectors or deep there's a responsibility generators the regulation of solid waste which starts at license require applicability than license requirements and then responsibilities of licensees each license shall comply with terms and conditions of license and the requirements to this ordinance and there's two sections about recycling, variable rate pricing, filing a precinct system but there is no...
- Mr. Kade: Is there anything and you're about paying your... about a licensee paying their surcharge when do?
- Mr. Leddy: I believe, yes.
- Mr. Richards: I guess not.

- Mr. Leddy: That's later on. However, but there isn't anything in that section about where collectors are to dispose of their waste.
- Mr. Kade: Right.
- Mr. Leddy: I wish you put in at least one clause that says all waste should be deposited at a certified...
- Mr. Kade: Yeah, license facility.
- Mr. Leddy: ...license facility or landfill because further on then we have... we have language in here about inspections and all waste shall be available for inspection by solid waste district staff and the penalty in the penalty section, section 6.4 on page 11.
- Mr. Kade: Six.4.
- Mr. Leddy: Is disposal and un-line landfill or the legal, and the legal transportation/penalties. So, it outlines a penalty for disposal in an un-line or illegal landfill but does not...
- Mr. Voegele: In that, how we learn about it?
- Mr. Leddy: Through tips.
- Mr. Voegele: That's it?
- Mr. Leddy: Inspection. That's what our, you know, and we've... actually, in the past our enforcement officer. Barry was involved in the detection of an unregistered landfill that was at a gravel pit and he handed over the state. It wasn't focused on haulers that brought the waste there. It was an action against the land owner who is operating an illegal landfill by charging people, you know...
- Mr. Voegele: I see.
- Mr. Leddy: Yeah. Five bucks to bring in dump truck load of trash. So, and in here it does say that or it speaks about designated staff. So this is...
- Mr. Kade: Thus, I see all kinds of reference to fees required by this ordinance. Is there a place where actually requires a fee?
- Mr. Leddy: It does.
- Mr. Kade: All in position of [cross talk] franchise tax?
- Mr. Leddy: Franchise tax, yeah. Section 521 [cross talk] page 7.
- Mr. Kade: Okay, yeah. What is all franchise fee now?
- Mr. Leddy: Twenty two dollars. That was set.
- Mr. Kade: He says \$15 in here.
- Mr. Leddy: Yes. And then he say's \$15...
- Mr. Kade: Maybe adjusted periodically by resolution...
- Mr. Leddy: Yeah.
- Mr. Kade: ...of the board truth. I would suggest... putting, just putting a note in parenthesis in this and especially that were it's online that says adjusted to \$22 as of...
- Mr. Leddy: And at the board meeting or as of...?
- Mr. Kade: Yeah.
- Mr. Leddy: Yeah, a state.
- Mr. Kade: As of what by the board as of.
- Mr. Leddy: Okay. It was in 2008.
- Mr. Kade: And the minutes of that should be in the package that you've got that...
- Mr. Leddy: Yeah. That backs up everything.

- Mr. Voegele: Most illegal problem is varied just rewriting paragraph.
We're on illegal problems involved and just rewriting paragraph by...
- Mr. Leddy: Just amending it?
- Mr. Voegele: ...amending it to reflect \$20 versus \$15.
- Mr. Kade: If we were going to rewrite it I would leave out a specific number and just say in the amount designated by the board and then update that with a note in parenthesis just saying what it is presently rather than... because if we rewrite it then it's a change in the ordinance and the change doesn't effective for 30 days. So do we have to go back to \$15 for the 30-day?
- Mr. Voegele: No. Yeah, rather than the sequence of having to find more paperwork to find out the fee I just assume at some future time change...
- Mr.Kade: No. What I'm saying is we should just to had a note...
- Mr. Leddy: A reference.
- Mr. Voegele: Okay. Is the last sentence you mean?
- Mr. Kade: After the last sentence in parenthesis...
- Mr. Voegele: Okay.
- Mr. Kade: ...but the fee is \$22 per, you know...
- Mr. Voegele: The decision.
- Mr. Kade: ...for decision of the board dated whatever the meeting.
- Mr. Voegele: Okay.
- Mr. Leddy: Also, that we have to follow the procedure for updating this, the ordinance, requires a public hearing...
- Mr. Kade: Yeah.
- Mr. Leddy: ...and which if we were going to try and keep this up to date it could mean every time we wanted to change...
- Mr. Kade: Yeah.
- Mr. Leddy: ...the fee we would have to go through that but we don't have to do that to just add a little parenthetical note. Okay. So, should we add... This is going back. Should we add a mandate that always be deposited and certified?
- Mr. Kade: Yeah.
- Mr. Voegele: But the districts are trying to sold it.
- Mr. Leddy: Okay.
- Mr. Kade: District to a state.
- Mr. Leddy: Well, we have...
- Mr. Voegele: Come across to track it down if it's statewide.
- Mr. Richards: So, this district certified than a [inaudible 64:13] burning. It should be easier for us to finding a staff warrant?
- Mr. Kade: But we don't certify facilities.
- Mr. Voegele: It's approved [laughs].
- Mr. Kade: Approved. Okay.
- Mr. Leddy: Oh, yeah.
- Mr. Richards: Yeah, we don't have a list of them. Do we?
- Mr. Kade: We have a list of the statewide facilities.
- Mr. Richards: We could just anything the state approved...
- Mr. Leddy: Yeah.
- Mr. Richards: ... it could be approved by [cross talk 64:37]?

- Mr. Leddy: And so, we have in our solid waste plan district approved facilities because we have to, to have a valid plan, have...
- Mr. Kade: Right. But those are facilities that approved within our district, right?
- Mr. Leddy: They are. Yes.
- Mr. Kade: Okay. Because what I'm thinking is that we have, let's say somebody wants to hold to a facility in Rutland that's state-approved. I don't think we have the authority to say, "No. You can't go there," because we haven't approved it.
- Mr. Richards: I think you're right. Well.
- Mr. Kade: And then, when they're approved, when the state approves a facility they approve them to take in trash from anywhere in the state.
- Mr. Leddy: Right, correct. Correct.
- Mr. Kade: Then we can... We can't say no but not from us.
- Mr. Leddy: Not unless we are try doing acts some sort of flow control.
- Mr. Kade: Yeah.
- Mr. Leddy: But that's not the...
- Mr. Kade: That not what we're doing, yeah.
- Mr. Leddy: No. We're just trying to ensure that it goes into approved facility and...
- Mr. Kade: Yeah.
- Mr. Leddy: ...the state is the one that approves.
- Mr. Kade: Yeah.
- Mr. Voegele: But then, is that why facility amend in to report back to you that such and such company dump so much waste in our facility?
- Mr. Leddy: When I said Rutland I know I have no idea if there was a facility in that but, yeah.
- Mr. Voegele: I know. Just a prompt through on the example. They have been required to [cross talk] call us?
- Mr. Kade: Yeah. Well, earlier I said all facilities in the state are required to...
- Mr. Leddy: To report.
- Mr. Kade: To report to...
- Mr. Leddy: Because we are a municipality with a...
- Mr. Kade: Municipality, yeah.
- Mr. Leddy: ...with a fee...
- Mr. Voegele: Right.
- Mr. Leddy: Like that as a landfill they have to report back to us about. It doesn't say how detailed those reports have to be but I think they have to tell us at least hauler and the tonnage.
- Mr. Kade: Whether with that to say, we're not to say the tonnage from the district? I mean, if somebody collected from Colchester and North Hero.
- Mr. Leddy: So, right. That then it falls back to the hauler to tell us what percentage of that tonnage was from our district.
- Mr. Kade: So they have to tell...
- Mr. Leddy: And then...
- Mr. Kade: ...we get that from them not from... they don't tell...
- Mr. Leddy: Sometimes we get it from the facility.
- Mr. Kade: Okay. In other words, the facility is not required to ask or to keep track of...
- Mr. Leddy: They are required to.

- Mr. Kade: I mean, if they're required to ask for a ton that comes with them it comes from.
 - Mr. Voegele: How would we verify that then the hauler says, "Well, we contributed 5%, and then totally independently two tells Colchester. Oh, yeah we have like 5%.
 - Mr. Leddy: ...that's where we engage in an audit process of the hauler and their records are open to us and we determine via their routes?
 - Mr. Voegele: Right.
 - Mr. Leddy: And where they're hauling waste from and we look at their routes for six months and we say, "Okay. Your Monday route is 75% St. Albans and 25% Fairfax who's now the district town but you're reporting it in the opposite percentage when you dump it at the landfill or you're not even saying St. Alban's town you're just saying Fairfax. And so, therefore, you're...
 - Mr. Kade: Also, if they...
 - Mr. Leddy: And that's the tactic we've used in the past when hauling.
 - Mr. Kade: Let's say St. Albans and Colchester which about numbers of a district.
 - Mr. Leddy: But different district.
 - Mr. Kade: If this, for districts, if they tell us it's 5% from St. Albans and 95% from Colchester and they take the Colchester, you know, it's 5% that's easy enough to find out.
 - Mr. Leddy: And so, we utilize, for our audit services, we utilize the state compliance officer who is a statewide officer for the solid waste district managers association as well as the state. So he goes around the state looking for state, the state franchise tax and then as well the solid waste district franchise taxes. So, it's... hopefully now there's a third tool that's being used which is the facilities reporting. It's not as immediate so I'm really not sure about how applicable it is but every facility has to report to the state where they receive waste from and that is being integrated into, I know Excel has done it, with their software. So when somebody comes in instead of indicating the town, it indicates the solid waste entity. So instead of saying Fairfax or same all those town they say it came from Northwest Solid Waste District and then or Chittenden Solid Waste District. So, they can do a 50/50 split if that truck goes from St. Albans Town to Colchester but that's only a quarterly report. So we kind of slow and the account received for department.
 - Mr. Voegele: Right.
 - Mr. Kade: We haven't voted around anything but I think what we should do is when you put together the minutes that will give us information to actually make proposals that we can then bring on not on hopefully at our next meeting.
 - Mr. Leddy: Okay. That sounds like we have a pretty good start there.
 - Mr. Kade: Yeah.
 - Mr. Leddy: Do we have... it also sounds like we completely work our way through this ordinance in its entirety.
 - Mr. Kade: I think so.
 - Mr. Leddy: Okay.
- 5) Discussion: Charter/Ordinance Committee work for the FY17 Fiscal Year**
- Mr. Kade: What ideas do you have?
 - Mr. Leddy: I think we touch on a lot of them today.
 - Mr. Kade: Okay.

- Mr. Leddy : I know, well, this the administrative procedures was one. The inclusion of the local law enforcement branches into our ordinance was another one I wanted to investigate it. It sounds like it's much easier than I originally thought and I know that at some point in the last three years...
- Mr. Kade: On that should I talk with Barry to see what he's a bit, you know, because he said he's been talking to a sheriff.....
- Mr. Leddy: I'll talk to him a bit more...
- Mr. Kade: Okay.
- Mr. Leddy: ...and get a report and you can talk to him as well if you like I think. But it would be good for me to revisit with him...
- Mr. Kade: Okay.
- Mr. Leddy 1: We haven't talked about it by a month. He kind of falling it, falling into a pattern and it's been very quiet the illegal dumping and burning goals, yeah. He's warming up. Oh, when I was saying in the past couple of years I know that this was on the admin committees play the wild duck but there had been a number of work and, not maybe the number, but there had been a reading of charter and possible updates to it.
- Mr. Voegele: That's right what we were talking about today for some reason. So I printed out that you order..and went through it and I think there are a couple of things isn't worthwhile discussing.
- Mr. Leddy: And then the procedure for updating the charter which is a legislative fix which we can get these...
- Mr. Voegele: The first that I get the board approved it and each...
- Mr. Leddy: Right.
- Mr. Voegele: ...list of the towns have to approve it and there it goes from the state.
- Mr. Leddy: And then, right. So it's a process.
- Mr. Voegele: Yeah, along with.
- Mr. Leddy: Along with, yeah. Well probably, I think we read through it last time and then..
- Mr. Kade: Okay.
- Mr. Leddy: ...decided it might not be worth but...
- Mr. Kade: Well, I mean, if there is anything serious that we need to do remember that the legislature could pass, well not tomorrow because they're not in session, if the governor could call a special meeting of the legislature for the day after tomorrow to disband all solid waste districts or the legislature could amend our charter without any suggestion or input from us.
- Mr. Voegele: Right. The fact that you bring it to them open to up for that.
- Mr. Kade : No. What I mean is if there was something that we felt wasn't really important than emergency it would not have to go through the public process.
- Mr. Voegele: Oh, for the public.
- Mr. Kade: The public vote. No. I, think they'd probably would found out the legislature with Vermont that is a very bad precedent.
- Mr. Leddy: Yeah.
- Mr. Richards: So can these be done sequentially where we focus on the ordinance unless we start to get that done and take a look at the charter or we're going to do both at the same time or...?

- Mr. Leddy: Because there aren't, I mean, as far as I view it there are no emergencies in the charter.
 - Mr. Richards: They don't interact and affect each other where they need to be some things to look at.
 - Mr. Leddy: No.
 - Mr. Kade: Right. I mean, yeah if we needed authority to do something...
 - Mr. Leddy: Right. We found that we had no authority...
 - Mr. Kade: Because a lot of our authority doesn't come from the charter specifically from general law that applies to municipalities and/or solid waste districts.
 - Mr. Leddy: Where did you get this charter online?
 - Mr. Kade: Oh, yeah.
 - Mr. Voegele: It's actually, I've got it through the website.
 - Mr. Leddy: Okay.
 - Mr. Richards: It's the easiest place.
 - Mr. Leddy: How does yours look? Because I printed mine from Vermont Statutes Online.
 - Mr. Kade: That's how I do it.
 - Mr. Leddy: Well, that's good to know because I don't think I've ever navigated to it through our web or at least I haven't recently maybe that's from our new website. They pointed us somewhere else, you know, and the state just updated their...
 - Mr. Kade: When I went to Chittenden and Central Vermont I see they all have the same format. Are you all using the same program to set up your websites?
 - Mr. Leddy: Pretty much. Just because it's a word there is only a few...
 - Mr. Kade: The Word Press or something.
 - Mr. Leddy: It's a Word Press and that the scrolling top bar is very popular among web designers right now. All right.
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- Mr. Kade: Okay. I move to adjourn.

The Charter/Ordinance Committee meeting adjourned at 6:20 PM.