

Palm Beach Renewable Energy Facility No. 2 Plan Raises Questions

A Florida TaxWatch Special Report

DECEMBER 2014



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John B. Zumwalt, III
Chairman

Dominic M. Calabro
President & Chief Executive Officer

Dear Fellow Taxpayer,

Florida TaxWatch was approached by officials from Palm Beach County with questions about a proposal to accept solid waste from neighboring counties for use in its waste-to-energy trash incinerator.

The decision to expand the county's waste capacity by accepting waste from outside its jurisdiction will impact the local taxpayers; therefore Florida TaxWatch has provided an independent analysis of the proposal.

This is an important local decision that has larger impacts statewide. Because of the urgency of the request, our research was conducted in an expedited timeframe, focusing on the largest and most concerning questions for local taxpayers.

The research into the waste-to-energy facility has uncovered many questions about equity, fairness, and acceptable taxpayer risk for local residents regarding this plan. We hope that addressing these critical fiscal and economic policy questions will help the elected officials of Palm Beach County make the best decisions for their taxpayers, residents, and businesses.

Sincerely,

John B. Zumwalt, III
Chairman

Dominic M. Calabro
President & CEO

Introduction

Palm Beach County has spent more than \$600 million on a waste-to-energy (WTE) trash incinerator, commonly known as Renewable Energy Facility #2 (REF #2), at the site of the existing county-owned landfill. The facility was built to burn approximately 3,000 tons of trash per day (1.1 million tons per year), which produces electricity through steam turbines and turns the solid waste into ash.

By incinerating the waste and sending only the ash to the landfill, Palm Beach County will prolong the operational life of the existing landfill by several decades. In order to take advantage of the excess capacity of the incinerator to generate additional revenue, the County would permit out-of-county trash haulers to pay lower rates than their local counterparts would be charged for the same service.

As Palm Beach County officials are considering this proposal, multiple County Commissioners requested that Florida TaxWatch examine the proposal, and produce a report that included any questions or concerns that we felt were necessary to consider.

Generally, public policy should favor fair competition in the free marketplace; however, if the plan at hand will be undertaken, a number of questions should be thoroughly examined first. Some key issues are identified in this report in order to facilitate an open and honest discussion for the taxpayers of Palm Beach County.

Identifying the Stakeholders

A November 2014 report¹ by the Hinkley Center for Solid and Hazardous Waste Management examined a number of issues and questions raised by members of the community regarding the use of excess capacity for REF#2 and the acceptance of supplemental waste. The Hinkley Center's conclusions regarding the impacts of hauling imported trash on traffic, road maintenance, litter, noise, odors, emissions and neighborhoods are not in dispute. It is reasonable to expect the impacts of 11 additional trucks per day on traffic, road maintenance, litter, noise, odors, emissions, and neighborhoods to be de minimis.

Section 5.0 (Costs) of the Hinkley Center report includes a stakeholder analysis to help assess the fairness of allowing out-of-county haulers to pay fees lower than those paid by Palm Beach County residents. After a review of the literature pertaining to who the stakeholders are in waste management, the Hinkley Center identified the following stakeholders: SWA employees; Palm Beach County public officials; creditors (that financed REF#2); resident consumers and users of SWA services; out-of-county consumers and users of SWA services; local communities; the environment; and future generations.

The absence of businesses that would be affected by the SWA's decision to accept supplemental waste is conspicuous. Nowhere in Table 5.1 (Broad Overview of Anticipated Effects on Stakeholders) do the potentially market-distorting effects of below-market pricing appear to be identified as either "declared or conceptually inferred interests" or as "likely costs if waste is imported."

Palm Beach County should take steps to ensure that business interests affected by the decision to accept supplemental waste have a seat at the table and that their concerns are addressed openly and not relegated to an appendix in the Hinkley Center report.

¹ The Hinkley Center for Solid and Hazardous Waste Management. *Examination of Issues Surrounding Excess Capacity Utilization for Palm Beach Renewable Energy Facility #2*. Available at: http://www.swa.org/pdf/board_agenda_and_minutes/SWA-HinkleyReport.pdf

Public Service as a Business Activity

A public service is one provided by a government to people living within its jurisdiction, either directly or by financing the private provision of that service. The collection of solid waste and the operation of a landfill to dispose of solid waste generated by county residents and businesses is a legitimate public service; however, once an activity extends beyond the jurisdictional boundaries of a particular government entity, it is no longer a public service but a business activity.

However one feels about the appropriateness of one political entity using taxpayer dollars collected from within its jurisdiction to fund a service that the entity then provides to taxpayers of a different political entity's jurisdiction, there is some effect on the free and fair market that needs to be considered.

Unfair competition could occur when government takes advantage of its unique privileges (e.g., tax exemptions and regulatory authority) to supply services to the market in competition with private businesses.

Palm Beach County is exempt from paying state and local taxes that private firms would be required to pay. This tax subsidy artificially lowers the County's cost to build and operate the incinerator, and permits the County to offer below market prices to out-of-county haulers. Palm Beach County can use its tax exemptions and other (regulatory) privileges to create a competitive advantage when it comes to the construction and operation of the incinerator.

Secondly, the costs of capital are lower for Palm Beach County relative to a privately owned or publicly traded corporation. Palm Beach County is able to borrow money for the incinerator's construction at preferential rates, which are guaranteed by the taxpayers and which artificially lower the cost of borrowing money and the interest rates paid by the County.

This lowers the County's debt and artificially enhances the County's ability to offer below market prices to out-of-county haulers. Palm Beach County does not have to worry about returns on investment or paying dividends to shareholders as a way to get taxpayers to invest money in the incinerator. If the incinerator performs poorly, the County does not have to worry about taxpayers selling or trading their equity.

Given the subsidized capital used in the building of REF #2, Palm Beach County will be competing against private companies using this subsidized capital.

Furthermore, offering out-of-county haulers below market rates may have the same impact as predatory pricing, a technique that is used by private sector firms to drive out competition. All these things combine to discourage competitors from entering into, or investing in, activities that are likely to invite government competition.

The potentially market-distorting effect of below-market pricing by a public entity using a taxpayer-funded facility to engage in the private market justifies a full and open consideration of the advisability of such an activity.

Questions that should be asked:

- Is it appropriate for a public entity to use a taxpayer-funded facility to provide a business function to the residents of another county?
- Is it fair for a public entity to use a taxpayer-funded facility to compete in the private market by allowing the facility to become a service provider for other public or private entities?
- Will using a taxpayer-funded facility in the private market affect prices by becoming a service provider for other public or private entities?
- Is it good for the economy to have a public entity use a taxpayer-funded facility to compete with private entities outside of its jurisdiction?

Is It Fair?

On the surface, it looks like Palm Beach County is generating new revenues by importing its trash and exporting its tax burden; however, the tax exemptions and other privileges used by Palm Beach County to build and operate the incinerator and then lure other jurisdictions to haul their trash to Palm Beach County could stifle competition and diminish the tax base, creating additional burdens for Palm Beach County taxpayers.

Even if selling the excess capacity lowers the cost of trash disposal for Palm Beach County residents, the minimal savings are achieved by providing a larger savings to the residents of Broward County and/or a Broward County service provider. This situation is unfair for the residents of Palm Beach County, who have invested in the fabrication of REF #2.

When taxpayers subsidize government-run activities, then market incentives that promote wealth and generate economic growth and efficiency are eliminated. When the tax base is diminished, all taxpayers are injured, and the tax rate increases.

Questions that should be asked:

- Is it fair to allow imported waste into the system at a rate lower than Palm Beach County residents and businesses pay?

Who Wins & Who Loses?

The consideration of this proposal may be different depending on who receives the savings from the lower prices for waste disposal in Broward County: the residents and businesses of Broward County through lower prices, or the waste-haulers through surplus revenues by not passing on lower solid waste prices to the consumers (i.e., residents and businesses). In either case, the subsidies will distort the market.

Depending on the answer, the real winners may be the Broward County waste-hauling company who could potentially reap additional profit subsidized by the residents of Palm Beach County.

Alternatively, if Broward County customers get a lower price than the actual total costs, these customers would have less incentive to either prevent or reduce their solid waste flows.

Any lower prices distort the market and cause improper price signals in the market, potentially de-valuing the avoidance of solid waste production.

Questions that should be asked:

- Who will receive the benefits of the market-distorting savings given to Broward County (e.g., a contractor or the Broward County government)?
- Is there anything preventing the private haulers from keeping the money?
- What effect will the de-valuation of reducing waste have on the environment?

Is the Price Right?

Although it may appear that Palm Beach County is covering its marginal operating costs under the proposal by accepting the additional refuse, the total costs are what are important here.

Generally, the costs that any customer of a public works project pays should cover the operation of the plant, the administration, debt service, and all other related costs, including the externalities. If the pricing level to sell the excess capacity covers only the marginal costs of plant operation, then the long-term costs of operation are not covered.

Questions that should be asked:

- What are the true operating costs of the plant?
- Who calculated these costs, and how were they calculated?
- How much needs to be charged per customer to fully cover the costs of the plant?
- How does that amount differ from the amount proposed for the Broward County price?

The Justifications for Construction

The message sent to Palm Beach County taxpayers regarding the need to import trash from surrounding jurisdictions appears contrary to the earlier message regarding the need to build the incinerator in the first place. Palm Beach County taxpayers were told that the construction of the waste-to-energy incinerator would allow local officials to postpone a decision on a new landfill site until 2046. Reserving the excess capacity that would otherwise be made available to out-of-county haulers would give local officials an additional eight years (through 2054) in which to find a new landfill site. Additionally, building the plant at a size that would maintain excess capacity for a number of years was a conscious decision by the Palm Beach County SWA.

Questions that should be asked:

- Does the proposal to sell capacity at a subsidized, lower rate send a mixed message to Palm Beach County residents regarding the need for a new landfill?
- What size plant was recommended by leading industry experts advising the Palm Beach SWA at the time that REF #2 was being considered?
- What were the current volumes of solid waste, what volumes were projected, and were any solid waste streams diverted in the process of justifying the choice of this size facility?

Learning From Other States

Did Palm Beach County examine the experience of other local governments that have imported waste for REF #2? Such an examination could provide the County with valuable case studies.

Nearly all states, including Florida in some counties, import and/or export waste to other states and counties. Most of this waste goes into landfills. But there is evidence that there are some waste incinerators that take in trash from outside locales and some that are currently considering such plans.

There are also many places where state and local regulations prohibit this practice. One county in New York, looking to address excess capacity at its WTE plant, will soon be deciding on a proposal to accept waste from neighboring county. In return, the other county would take the ash from the WTE plant back to its landfill. While this approach may not be what's needed in Palm Beach County, it highlights that there are other options to explore.

If the idea was to use outside waste to help pay for excess capacity in Palm Beach County, discussions with other counties should have been part of the expansion planning. A county in Minnesota, faced with the need to expand capacity of its WTE plant, partnered with other counties who all contributed to a \$30 million expansion.

Questions that should be asked:

- How widespread is the practice of importing waste at publicly owned WTE plants?
- What has been the impact on rates and facility capacity?
- What has been the level of public satisfaction?
- Do any incinerators importing waste offer exporters lower rates than residents?
- Given that subsidies will distort the market, what has been the impact on private solid waste haulers and private WTE plants?

Conclusion

The Hinkley Center report acknowledges that the calculated direct fiscal compensation on a per-resident basis is relatively small.² While estimates have been revised downward multiple times, the savings have been estimated to be less than one penny per family, per day.

This begs the obvious question for Palm Beach County officials: Is it worth distorting the market through the introduction of below-market pricing, affecting the interests of in-county waste haulers, and alienating residents of surrounding communities just to save Palm Beach County homeowners one penny per day?

Florida TaxWatch Recommendations

Florida TaxWatch has serious concerns about this proposal, and examining the various aspects raises important questions that taxpayers deserve to have answered before Palm Beach County agrees to undertake this activity.

The questions raised by this paper are interconnected and should be the first questions asked in what must be a series of inquiries about the effects of this proposal on: a. the residents of Palm Beach County; b. the residents of Broward County; c. the economies of both counties; d. the environment of both counties and the surrounding areas; e. the industry and local governments.

2 The Hinkley Center for Solid and Hazardous Waste Management. *Examination of Issues Surrounding Excess Capacity Utilization for Palm Beach Renewable Energy Facility #2*. Available at: http://www.swa.org/pdf/board_agenda_and_minutes/SWA-HinkleyReport.pdf



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November 25, 2014

Mr Dominic M Calabro
Florida TaxWatch
106 N Bronough Street
Tallahassee, FL 32301

Dear Dominic,

I am sure you are aware the County Commission is considering a proposal involving our new REF #2 (Renewable Energy Facility #2). This proposal has drawn a significant amount of attention from within and outside our community.

As elected representatives of the residents and businesses of Palm Beach County, we must carefully consider all the angles of this proposal. There have been public meetings and we have heard from concerned citizens and stakeholders.

Many important groups have weighed in and, while the opinions of those we serve are the most important, we are reaching out to you to ask for your assistance as well. Specifically, we would like to know what questions TaxWatch experts would ask.

Please look at the issue, the proposal and the larger implications of our decision and tell us, our colleagues and citizens what things you think we should consider.

I am including the link to the Hinkley Research Study on the delivery of supplemental combustible waste to the renewable energy facility #2 for your reference and look forward to your thoughts:

http://www.swa.org/pdf/board_agenda_and_minutes/SWA-HinkleyReport.pdf

Regards,

Paulette Burdick
Palm Beach County Commissioner
District 2

*"An Equal Opportunity
Affirmative Action Employer"*



Original correspondence by electronic mail

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County Administrator

Robert Weisman

December 1, 2014

Mr Dominic M Calabro
Florida TaxWatch
106 N Bronough Street
Tallahassee, FL 32301

Hi Dominic,

I have some questions concerning a proposal to import out of county waste on an interim basis to fully utilize the Pam Beach REF #2 capacity. The municipalities in my district are also concerned about issues surrounding this proposal.

I am wondering if you have any ideas, specific or general that you think we should consider as we make our decision regarding this proposal.

I look forward to your reply.

Thanks,

Shelley Vana
Mayor of Palm Beach County
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The findings in this *Report* are based on the data and sources referenced. Florida TaxWatch research is conducted with every reasonable attempt to verify the accuracy and reliability of the data, and the calculations and assumptions made herein. Please feel free to contact us if you feel that this paper is factually inaccurate.

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