

**SENATE OF PENNSYLVANIA**  
**LOCAL GOVERNMENT COMMITTEE**  
**TESTIMONY OF**  
**JEFF HASTE, CHAIRMAN, DAUPHIN COUNTY COMMISSIONERS**

CHAIRMAN EICHELBERGER, CHAIRMAN BLAKE AND MEMBERS OF THE COMMITTEE:

I am Jeff Haste, Chairman of the Dauphin County Board of Commissioners. I was appointed to the Board of Commissioners in December, 2002 and in April, 2003 I was elected Chairman, a position which I have held since that date.

I am pleased to appear before you to assist in your examination of the Harrisburg Incinerator Project which has had serious adverse consequences for the City, the County and the Commonwealth.

Allow me to provide some background of the County's involvement in this project. In 2000, the County's Act 101 Plan directed all municipal solid waste to various regional landfills. Prior to 2000, the County and the City engaged in extensive litigation whereby the City attempted to have its Incinerator included within the County plan. Although the County prevailed in that litigation, the City and the County entered into a Settlement Agreement whereby the County agreed to consider directing a wasteflow to the City's Incinerator in order to assist the City in financing a necessary retrofit of the facility.

From 2000 to 2003, the County took steps to amend its Act 101 Plan to discontinue reliance on landfill disposal and to incorporate resource recovery into its plan. A major concern to the Commissioners was the potential reopening of the

Dauphin Meadows Landfill in the northern portion of Dauphin County unless alternative disposal methods were identified.

By 2003, the Incinerator was closed by environmental agencies leaving \$104 million of existing debt guaranteed by the City. For several years the City had been urgently requesting the County's assistance in financing retrofit of the facility suggesting that bankruptcy was an option if the retrofit could not be accomplished. The County responded by awarding a long-term disposal agreement of County municipal waste to the City Incinerator subject to successful completion of the retrofit. Ultimately the County agreed to guarantee a portion of the debt in order to facilitate financing the project.

By 2003 the City had been working with Barlow for a number of years to develop and plan the project. The County, in considering its guaranty, retained special counsel, consulting engineers and PFM as financial advisor to review the project. Our consulting engineer conducted a review of Barlow's past projects, reviewed the self-liquidating debt certification and the engineering report to City Council. PFM reviewed the financial structure of the Retrofit Bonds to be guaranteed by the County and approved the related SWAPS which were also guaranteed by the County. The County's guaranty was secondary to the City's and at the time the City represented to us that the County's risk would not exceed one year's debt service because the City, if unable to meet debt service in a given year, would appropriate and pay the deficiency from its next year's budget. That of course never happened.

The County knew there were risk factors associated with this project, including:

(i) Barlow's lack of experience with respect to projects of this size; (ii) the lack of a

performance bond; and (iii) the necessity to size the project in order to cover repayment of the City's existing debt.

With respect to the lack of a performance bond from Barlow, the County reviewed and relied upon the alternative security arrangements approved by the Authority, which included a guaranteed maximum price contract, deferred payment for certain equipment until delivered to the site, a 20% retainage on Barlow's contract price and reserve amounts within the Construction Fund.

While the County reviewed and accepted these risks, it certainly could not have anticipated the catastrophic failure of the project which we believe resulted from gross mismanagement and failed oversight by the Authority and the City.

The project was to be completed in 2006. By the end of 2005, the Authority and the City had expended the entire Construction Fund, including the contingency and reserve funds. At that point, the project was not near completion. The City and the Authority then borrowed an additional \$25 million from CIT and a year later, at the end of 2006, those funds were expended and the project was still uncompleted. The security measures which the Authority had put in place were never properly administered or enforced. This colossal collapse cannot be blamed simply on Barlow's failure. Where was the oversight, who approved the overrun payments? Were certificates filed to authorize payments? None of these questions have been answered.

The Forensic Audit reviewed the planning of the project, but there has been no examination of the actual execution of the project. The Authority's records concerning payments and administration of the project should be readily available for review.

No matter how well a project is planned, if it is executed poorly without adequate oversight, then disaster is the likely result. The County had no part to play in the execution of this project and is now paying the cost of its failure.

We understand that you have received testimony concerning the Authority's Forensic Audit. For the record, we have appended to my prepared testimony a copy of the County's response to those portions of the Forensic Audit which deal with the County guarantys.

Before concluding I will address briefly some of the issues with which we understand your Committee has interest.

**COUNTY GUARANTY FEE.** In 2003 we were advised that the City would be imposing a guaranty fee in order to provide funds to balance the City's 2003 budget. We understood that the County's guaranty provided substantially more enhancement to the financing than the City's. We also believed that in order to maintain balance between City taxpayers and County taxpayers, the County should also receive a guaranty fee. The County's guaranty fee was applied to payment of County expenses associated with issuance of the guarantys, including fees of our special counsel and financial advisor. The balance of the fee was paid to our general fund.

**2007 FINANCING.** At the end of 2006, the Authority had terminated the City's Management Agreement and hired Covanta to replace Barlow. It was too little, too late. The City and the Authority then pressed the County to assist in additional financing to complete the project. Initially, the City requested the County to guaranty \$60 million of additional debt. We were reluctant to do so and applied limitations on the amount of financing that the County would guaranty. However, in the end we concluded that the bonds guaranteed by the County, which were of a higher priority than most of the other debt of the facility, could be paid only if the project were completed and fully operational.

**SUGGESTED LEGISLATION.** Currently, DCED approves only the "proceedings" with respect to debt issues, including revenue projects certified to be self-liquidating. There have been suggestions that DCED's review should be more substantive. Any such requirement will add substantial delay and cost to the financing of public projects. We question whether a more critical review by DCED would have averted the crisis in this case which resulted, in our view, from mismanagement of the project. Our suggestion is that DCED be authorized to perform a critical review and analysis of those self-liquidating projects which are supported by a municipal guaranty, where the amount financed represents a certain percentage of the municipality's available borrowing capacity. That would limit the review to those critical projects which may place in jeopardy a municipality's financial health.

Thank you.

Respectfully submitted,

Jeff Haste  
Dauphin County Board of Commissioners