



TOWN OF HOPKINTON

OFFICE OF
BOARD OF APPEALS

TOWN HALL
18 MAIN STREET - ROOM 207
HOPKINTON, MASSACHUSETTS 01748-3209

WAYNE R. DAVIES, Chairman
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March 19, 2004

Ronald Clark
Board of Selectmen
Town of Hopkinton
18 Main Street
Hopkinton, MA 01748

Re: E. L. Harvey & Sons, Inc.
Materials Recovery Recycling Facility (MRRF)
Applications for Special Permits
File No. 04-005

Dear Mr. Clark:

E. L. Harvey & Sons, Inc. (hereinafter "Harvey") has stipulated¹ to the Board of Appeals that it shall be subject to a per ton fee ("Community Host Fee") under [MGL c. 16 s. 24A](#). As a result, the subject parcel in Hopkinton may not be subject to levy of normal real estate taxes by the Town of Hopkinton. Harvey has stated that it intends to submit a "fiscal impact assessment, including projected revenues to the Town and fiscal or economic impacts" to the Planning Board under site plan review.² The Board of Appeals has requested that Harvey also submit this data to the Board of Appeals.³ Whereas this fee is directly related to the "use" of the premises, the Board of Appeals may consider inclusion of this fee as a condition of one or more Special Permits, should such be granted by the Board.

In the alternative, Harvey has offered to pay real estate taxes in lieu of the Community Host Fee.⁴

Therefore, the Town of Hopkinton needs to conduct a financial analysis of the two possible revenue alternatives and determine whether the "Community Host Fee" is preferable.

¹ Reference [correspondence](#) from Bowditch & Dewey dated September 25, 2003, page 3, footnote 1.

² Reference [correspondence](#) from Bowditch & Dewey dated March 1, 2004, page 8.

³ Reference [correspondence](#) of the Board of Appeals to Bowditch & Dewey dated March 17, 2004, page 3.

⁴ Reference Letter to Editor at [The Hopkinton News](#) entitled [Jim Harvey "Shows The Money" responding to James Dale's Letter](#).

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As pointed out by Mr. Harvey in his letter to [The Hopkinton News](#), the facility will not immediately be at full capacity. Therefore, the “per ton fee” is not assured as an immediate and significant revenue source to the town. In the early years, the Town may benefit to a greater degree from levy of real estate taxes. During its analysis the Town should also fully consider the possibility that the facility never reaches “full capacity” and that over the long term the “per ton fee” generates a lower revenue source than a real estate tax levy. Therefore, imposition of a “minimum per ton fee”, equal to the real estate tax that would otherwise be imposed, should be considered.

If the Town elects the “per ton fee” alternative, the Board of Appeals must be informed of this election so it can properly include this preference as a condition in one or more Special Permits, should such be granted by the Board.

When this “fiscal impact assessment” is available from Harvey, it is requested that the Board of Selectmen review the same with the other appropriate boards and town officials, and submit written comments and recommendations to the Board of Appeals. You are invited to include within your comments specific language to be included as a condition of a Special Permit. For example, wording that clarifies and makes clear the rights of the Town in such fees. Notwithstanding, you are expressly requested to include the specific “internal controls” that are required by the Town to ensure proper assessment and collection of this fee. For example, your comments should specify the reports or other data that must be submitted by Harvey to the Town to ensure the integrity of the fee assessment. The parallel operation in Westborough must be considered in this regard. Consideration should also be given to the right of the Town to periodically audit the books, accounts, and records of Harvey, at Harvey’s expense.⁵

Whereas the next Harvey public hearing is scheduled for April 28, 2004, your written response is requested by **April 21, 2004**.

Thank you for your anticipated cooperation.

Very truly yours,

Wayne R. Davies,
Chairman

WRD/

cc: Stephen M. Richmond, Esq. - Bowditch & Dewey, LLP
Ronald Eldridge, Chairman - Appropriations Committee
John Duffy, Chairman - Board of Assessors
Maureen Dwinell, Town Treasurer / Tax Collector
Heidi Kriger - Town Accountant
John H. Coolidge, Chairman - Planning Board

⁵ Such right is an acceptable and common business practice in private industry when fees are generated and based upon business operations.