

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

AN ORDINANCE ESTABLISHING SOLID) ORDINANCE NO. 81-112
WASTE DISPOSAL FRANCHISE FEES)

THE COUNCIL OF THE METROPOLITAN SERVICE DISTRICT HEREBY ORDAINS:

Section 1. Purpose and Authority

It is the purpose of this ordinance to establish solid waste disposal franchise fees pursuant to Section 15 of Ordinance No. 81-~~112~~¹¹¹.

Section 2. Franchise Application Fees

Each application for issuance of a solid waste disposal franchise shall include and be accompanied by a franchise application fee in the amount of Two Hundred (\$200.00) Dollars. Such fee shall defray the District's costs of processing each application and shall be nonrefundable. No application for issuance of a solid waste disposal franchise shall be considered without payment of said application fee. Facilities operating pursuant to Section 7(3) of the Disposal Franchise Ordinance are exempt from this section.

Section 3. Annual Franchise Fees

(a) Franchisees, issued a solid waste disposal franchise, shall pay to the District an annual franchise fee. Such fee shall be paid on or before January 1 of each year for that calendar year.

(b) Annual solid waste disposal franchise fees shall be THREE HUNDRED AND NO/100THS (\$300) DOLLARS per site; provided, however, that said fee shall be One Hundred (\$100) Dollars per site for each franchised site that only receives waste from the franchisee or a

company, partnership or corporation in which the franchisee has a financial interest.

(c) Franchisees who are issued franchises during a calendar year shall pay a fee computed on a pro-rated quarterly basis such that one quarter of the annual fee shall be charged for any quarter or portion of a quarter that the franchise is in effect. The franchisee shall thereafter pay the fee annually as required by subsection (a) of this section. Franchise fees shall not for any reason be refundable in whole or in part. Annual franchise fees shall be in addition to franchise application fees.

Section 4. Non-Payment of Franchise Fee

(a) The issuance of any franchise shall not be effective unless and until the annual franchise fee has been paid for the calendar year for which the franchise is issued.

(b) Annual franchise fees are due and payable on January 1 of each year. Failure to remit said fee by said date shall constitute a violation of the Metro Code and of the franchise and shall subject the franchisee to enforcement pursuant to Section 20 of Ordinance No. 81-111 in addition to any other civil or criminal remedies the District may have.

Section 5. Transfer and Renewal

For purposes of this ordinance, issuance of a franchise shall include renewal and transfer of a franchise; provided, however, that

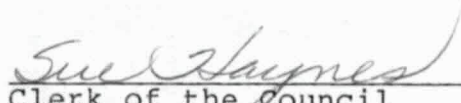
no additional annual franchise fee shall be paid upon transfer or renewal when the annual franchise fee for the franchise being renewed or transferred has been paid for the calendar year in which the transfer or renewal becomes effective.

EXECUTED this 3rd day of September, 1981.



Presiding Officer

ATTEST:



Clerk of the Council

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08/20/81

Mr. Irvine said that the need for diversion of material and rate adjustments was discussed by Council members and since the specific costs are not known at this time, the intent is to be flexible and equitable. Therefore, Mr. Newbore's suggested amendments will be looked at by the RSC in time for the Ordinance's second reading.

John Trout, representing Collectors of Local Teamsters 281, stated that his group is in opposition to the amendment of the Minority report on 13(12) and supports the Ordinance as drafted with a total outright prohibition. In addition to the issues that Mr. Cooper has pointed out earlier, a more important issue is "competition equity." He explained that when an operator of a landfill is also in collection operation, he is in a position to shift funds from his right pocket to his left pocket in paying his disposal bills. This gives him an unfair advantage over other haulers in reducing his own collection costs.

Coun. Bonner asked Mr. Trout how haulers found out about the alleged improprieties at the City's Landfill. Mr. Trout replied that when that activity was going on, it was obvious to haulers that some trucks were not going through the gates as most haulers, but around the gates to avoid the fee (which were the Landfill operator's trucks).

As there was no further testimony, Presiding Officer Deines, closed the Public Hearing on Ordinance 81-111.

Coun. Rhodes noted that according to the present wording of this Ordinance, its administration is to be by the Council rather than staff and asked whether this is agreeable to Council. The answer was yes.

PUBLIC HEARING on **ORDINANCE No. 81-112**, An Ordinance Establishing Solid Waste Disposal Franchise Fees (First Reading)

It having been ascertained that it was the consensus of the Council to do so, the Clerk read Ordinance No. 81-112 for the first time by title only.

Coun. Banzer moved seconded by Coun. Rhodes to adopt Ordinance 81-112.

Coun. Banzer summarized the Disposal Franchise Fee Ordinance, pointing out that the following fees to be received, will defray the cost for administering the franchise program: \$100 annual franchise fee for franchise sites receiving waste only from their own collection company. \$300 annual franchise fee for all other sites. \$200 application fee for all other sites (for processing applications). No fee for sites currently operating under a District Certificate which will be transferred to the franchise program upon adoption of the Disposal.

Presiding Officer Deines opened the Public Hearing on Ordinance 81-112. As no one present wished to give testimony, the Hearing was closed.

Coun. Burton commented that the fees are inordinarily low, if they are indeed intended to cover the cost of administering the franchise program (assuming it includes legal fees). Merle Irvine said that the

current budget is \$70,000 and explained how it was arrived at, its use, and agreed that the fee set does not cover the entire cost.

INTRODUCTION

Coun. Kirkpatrick introduced Allen Emmett, COG Chairman of the Greater Vancouver, B.C. area.

CONSENT AGENDA (Items 2.1 thru 2.13)

Coun. Schedeen moved, seconded by Coun. Kirkpatrick to accept the Consent Agenda.

Rick Gustafson, Executive Officer, stated that the A-95 Review (2.1) had been withdrawn after the Agenda mailing because the grant was not received by METRO.

There being no further discussion, a vote was taken on the motion to accept the Consent Agenda. The motion passed unanimously.

Presiding Officer Deines called for a dinner recess at 7:00 p.m. and asked the Councilors and audience to reconvene at 7:30 p.m.

CONTESTED CASE

Contested Case No. 81-2, In the Matter of Clackamas County's Request for an Urban Growth Boundary (UGB) Amendment for Waldow Estates

Mike Holstun, Assistant General Counsel, outlined the four options and its ramifications before the Council:

- 1) Majority report from the Regional Development Committee
- 2) To adopt an order to approve either unconditionally or only with development conditions stated
- 3) An order to deny
- 4) An order to deny with an invitation to resubmit as a trade

He said that under Metro's Contested Case rules this hearing tonight will not be for the purpose of taking new evidence or new public testimony, it will be a review of the record that was compiled by the RDC and forwarded to the Council. He told the audience that this issue has been inexhaustibly discussed at the RDC hearings and will help the Council to reach a decision tonight. He also stated that if there have been ex parte contacts now would be the appropriate time for Councilors to expose them.

Couns. Rhodes, Etlinger, Kirkpatrick, Oleson, Williamson, and Berkman all described the brief contact they had, either by letter, conversation, or lunch on Mr. Jimmie Johnson's behalf, and all stated that it will not affect their decision on this case.

Presiding Office Deines called on Jill Hinckley, Special Department/Land Use Coordinator, to give the staff review.

3.1 ORDINANCE NO. 81-111 (cont'd)

Motion to adopt the five staff recommendation (already incorporated into the ordinance); carried unanimously. (Banzer/Williamson)

Motion to adopt Gary Newbore's amendment to Subsection 8(6) as follows (Banzer/Etlinger):

"Subsection 8 (6) (a) To ensure a sufficient flow of solid waste to the District's resource recovery facilities, the Council may, upon thirty (30) days' prior written notice, without hearing at any time during the term of the franchise, direct solid waste away from the franchise. Whenever possible, the District shall divert an equitable amount of waste from each franchised facility to the resource recovery facility. In such case, the Council shall make every reasonable effort to provide notice of such direction to affected haulers of solid waste."

carried by the following roll call vote:

YEAS: Etlinger, Banzer, Bonner, Oleson, Deines
NAYS: Rhodes, Schedeen, Williamson, Kirkpatrick
ABSENT: Berkman, Kafoury, Burton

Motion to adopt Gary Newbore's amendment to Section 5(2) as follows (Banzer/Bonner):

"Subsection 5(2) Notwithstanding Section 5(1)(b) of this Ordinance, the District shall comply with Section 16 (User Fees), Section 19 (Determination of Rates), Subsection 8(6), and Section 14 (Administrative Procedures of Franchisees) and shall require contract operators of District-owned facilities to provide a performance bond pursuant to Section 7(2)(a)."

carried by the following roll call vote:

YEAS: Etlinger, Banzer, Bonner, Oleson, Deines
NAYS: Rhodes, Schedeen, Williamson, Kirkpatrick
ABSENT: Berkman, Kafoury, Burton

Motion to adopt Ordinance No. 81-111, as amended; carried unanimously. (Rhodes/Deines)

3.2 ORDINANCE NO. 81-112

Motion that Ordinance No. 81-112 be adopted; carried unanimously. (Banzer/Rhodes)

2.11 RESOLUTION NO. 81-271

Motion that Resolution No. 81-271 be adopted *as amended*; carried unanimously. (Banzer/Bonner)

*Prior to the vote on the motion, Presiding Officer Deines expressed his objection to the \$12,000 amount and suggested it be increased to \$25,000.

Motion to increase the minimum to \$25,000; carried unanimously. (Williamson/Deines)

2.12 RESOLUTION NO. 81-272

Motion that Resolution No. 81-272 be adopted; carried unanimously. (Banzer/Rhodes)

A G E N D A M A N A G E M E N T S U M M A R Y

TO: Metro Council
FROM: Regional Services Committee
SUBJECT: Franchise Fee Ordinance

I. RECOMMENDATIONS:

- A. ACTION REQUESTED: Adopt the attached franchise fee ordinance.
- B. POLICY IMPACT: This ordinance would establish an application fee and franchise fee schedule for solid waste disposal sites, transfer stations, resource recovery facilities and processing centers pursuant to Section 15 of the disposal franchise ordinance. The disposal franchise ordinance was reviewed by Regional Services Committee on April 7, 1981. The proposed fee schedule is:
- Application fee for solid waste facilities operating under a District Certificate or agreement upon adoption of the Disposal Franchise Ordinance--\$0.
 - Application fee for all other sites--\$200 (nonrefundable).
 - Annual franchise fee for franchised sites receiving wastes only from the franchisee or a company, partnership or corporation which the franchisee owns, or owns a majority interest of--\$100.
- Annual franchise fee for all other sites--\$300.
- C. BUDGET IMPACT: The District expects to receive approximately \$1,600 in annual franchise fees and application fees in FY82.

II. ANALYSIS:

- A. BACKGROUND: Section 15 of Metro's disposal franchise ordinance requires that the Council establish an annual franchise fee for franchised solid waste facilities. This franchise fee authority is based on ORS 268.317(5). On April 27, 1981, Metro's Solid Waste Advisory Committee unanimously moved to recommend the application and franchise fee schedule in the attached ordinance. Staff concurs with this recommendation. The purpose of the franchise application fee is to defray the cost of processing franchise applications. The purpose of the annual franchise fee is to defray the cost of administering franchises once they are granted.
- B. ALTERNATIVES CONSIDERED: The District could opt not to impose a franchise fee on sites franchised by the

District. In doing so, however, the District would lose a degree of flexibility in the financial administration of the program. Elimination of the franchise application fee could encourage frivolous franchise applications and encumber staff time in receiving and processing them. The franchise application fee and annual franchise fee are needed to defray the costs of processing applications, deter applicants who are not seriously seeking a franchise and help to defray the cost of administering franchises once they are granted.

- C. CONCLUSION: Adoption of the attached franchise fee schedule is recommended to defray the cost of processing franchise applications and administering the disposal franchise program.

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A G E N D A M A N A G E M E N T S U M M A R Y

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II. ANALYSIS:

- A. BACKGROUND: Section 15 of Metro's disposal franchise ordinance requires that the Council establish an annual franchise fee for franchised solid waste facilities. This franchise fee authority is based on ORS 268.317(5). The purpose of the franchise application fee is to defray the cost of processing franchise applications. The purpose of the annual franchise fee is to defray the cost of administering franchises once they are granted. The Council held a public hearing on the franchise fee ordinance on August 6. No one choose to testify at the public hearing.
- B. ALTERNATIVES CONSIDERED: The District could opt not to impose a franchise fee on sites franchised by the

District. In doing so, however, the District would lose a degree of flexibility in the financial administration of the program. Elimination of the franchise application fee could encourage frivolous franchise applications and encumber staff time in receiving and processing them. The franchise application fee and annual franchise fee are needed to defray the costs of processing applications, deter applicants who are not seriously seeking a franchise and help to defray the cost of administering franchises once they are granted.

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TA:srb
3010B:236A
08/20/81

ORDINANCE NO. 81-112

TITLE AN ORDINANCE ESTABLISHING SOLID
WASTE DISPOSAL FRANCHISE FEES.

DATE INTRODUCED August 6, 1981

FIRST READING August 6, 1981

SECOND READING September 3, 1981

DATE ADOPTED 9-3-81

DATE EFFECTIVE 10-3-81

ROLLCALL

	Yes	No	Abst.	Absent
Burton				✓
Oleson	✓			
Williamson	✓			
Berkman				✓
Kirkpatrick	✓			
Deines	✓			
Rhodes	✓			
Schedeen	✓			
Bonner	✓			
Banzer	✓			
Etlinger	✓			
Kafoury				✓