

RATE REVIEW COMMITTEE
MEETING MINUTES
June 3, 1992

METRO STAFF PRESENT

Roosevelt Carter
John Houser
Jeffrey Stone
Maria C. Roberts
Phil North
Connie L. Kinney

RATE REVIEW COMMITTEE MEMBERS PRESENT

Ruth McFarland
Andy Thaler
Ross M. Hall
Shirley Coffin
James Cozzetto Jr.

GUESTS

Charles Marshall, representing A.C. Trucking
Barry Graham, A.C. Trucking
Ambrose Calcagno, A.C. Trucking

Chair McFarland brought the meeting to order.

Evaluate request from Charles Marshall regarding an increase in transfer and transportation fees charged at the Forest Grove Transfer Station.

Mr. Marshall said that Metro's Tier 1 fees, at \$19 per ton would make the requested rate increase submitted by A.C. Trucking non-competitive. He said the referendum in Yamhill Co may or may not have an effect on what will eventually happen with the Riverbend Landfill (the landfill to which the transfer station delivers its garbage), but the results have thrown the tentative decisions made by the County Council, in conjunction with Riverbend up in the air, i.e., the rates quoted to them and included in their request are now unknown. Mr. Marshall said the \$19 Tier 1 fee reduced their "price umbrella" by \$3.42. Inasmuch as Yamhill Co. will not be raising their fees immediately, that umbrella is back.

Chair McFarland asked if A.C. Trucking was still requesting the rate increase.

Mr. Marshall replied that they were. He said that they had to beat Metro's rate in order to attract 65,000 to 70,000 tons -- have to offer a better deal to most of the tonnage coming through the site.

Chair McFarland asked if the basic problem associated with the pending request was that of being reimbursed for the bid request they responded to.

Mr. Marshall said that A.C. Trucking incurred \$271,000 in responding to the bid request, some of which was expended in 1991 and some expended in 1992 (\$90,000). Mr. Marshall said another factor for the requested rate increase is the fact that PUC reduced the weight limit on the county roads, that they were able to use spread axles, which they are now prohibited from using, therefore their overall load is down to about 20 tons. (The more axles under the trailer the higher the weight limit)

Phil North, Metro's Franchise Administrator, said there are a series of issues and he would try to provide some framework for the committee. Discussing rate review committee responsibility relative to reviewing rate requests Mr. North briefly explained the franchise code. The RRC, Council and the Executive Officer should give consideration to the following: operating and non-operating revenues; direct and indirect operating and non-operating expenses including franchise fees; non-franchise profits; reasonable return on investments exclusive of any capital investment in the franchise; or any sum paid for the value of the franchise or any other intangible value; and any other factors deemed relative by the Council. Mr. North suggested it might be difficult for the committee to assess these type of issues in the absence of a true audit. He said that because the facility does not utilize flow control or have flow control imposed on haulers by Metro to take material to that facility, Metro felt there were sufficient safeguards in terms of the market place. That is, haulers who were utilizing the facility would not be required to go there and therefore if the market price were to high, they could go elsewhere. In other words a self regulating rate. Mr. North said the down side of that is that there are several operating companies of A.C. Trucking solely owned and operated by Mr. Calcagno within Washington County in both incorporated and unincorporated areas. If they wish to raise their rates they must request approval from Washington County and from the affected municipalities. Mr. North said he believed these solely owned companies may not be quite as loosely affiliated as the market analogy might suggest, and this should be taken into consideration. Mr. North said that by examining these "fundamental issues" that seem to be before the Committee, it would appear there is a lack of information on what the true numbers might be at this point. Mr. North suggested some fundamental policy issues might need to be addressed, particularly the fact that the rate request was represented as a way of recouping the costs incurred in submitting and preparing an RFF to the Council for the transfer station. Mr. North said the Code did not prohibit that rationale for allowing an increase in rates.

Chair McFarland stated she would like to address that issue. Chair McFarland said that on occasion when the Council had asked for intricate bids or proposals, the contractual agreement includes a clause stating the bidders will receive a certain amount of money.

However, in this situation it specifically stated there would be no reimbursement to bidders. Ms. McFarland said that inasmuch as the Council has the option of reimbursement, it is done at the time of the request for proposal and the same treatment is applied to everyone.

Chair McFarland went on to state that Council and staff requested the RFF in good faith and were unaware that our wastestream would be reduced and remain reduced, and would therefore necessitate the withdrawal of the RFF. Chair McFarland further stated that to keep good faith intentions to the public in the Metro region, it would have been improper to purchase a facility that, at that particular time, was unnecessary and would cost Metro an excessive amount of money and therefore made it imperative that we withdraw the RFF at a late period of time into the process. Chair McFarland said she could not, in good faith, recommend that Metro reimburse A.C. Trucking for their expenditure in writing the bid request, especially in light of the fact that it was written into the RFF there would be no such remuneration, furthermore it would set a terrible precedent.

Shirley Coffin stated she agreed totally in principle and she felt it was a strange idea to build that type of recompense into a rate, and that although she would be against such a "payback," the only logical way this could be done would be to have a built-in reimbursement schedule to all bidders.

Mr. Marshall stated there were several things that set this particular situation apart from most others: the first is that for reasons beyond anyone's control and knowledge, the bid was withdrawn, so there were two contenders that had spent a considerable amount of monies, neither of which were successful. Mr. Marshall felt that Metro has to recognize that its integrity or image or reputation were partly at stake here. He said it may or may not damage Metro in the future when trying to solicit bids on other projects, and he did note that Metro only received one bid on the Wilsonville site but didn't know whether this was a factor.

Chair McFarland said she sincerely doubted that had anything to do with it and that there other factors involved.

Mr. Marshall said the second factor setting this situation apart (especially for Mr. Calcagno) was that this was a bid for the expansion of his business, as well as money spent in order to keep him in business, i.e., if he loses the franchise, his business was lost. Mr. Marshall said he understood Chair McFarland's point and understood the precedent aspect and that those things should be spelled out up front and admitted that they understood the terms. Mr. Marshall said A.C. Trucking was reacting somewhat to Councilor McLain's statement at the time of the hearing on withdrawal of the bid, wherein she questioned Director Martin and asked if it might be fair to compensate these people for their time and effort since there was no winner, and asked what he thought of that. Mr. Martin, according to Mr. Marshall, replied that that wasn't his call, it was the Council's call, but that he sympathized with that point of view, whereupon Councilor Wyers said she too agreed with that. Mr. Marshall said that was the end of the discussion at that point to the

best of his recollection. Mr. Marshall said they have been waiting to see if there was anything forthcoming , but to this date have been disappointed.

Chair McFarland told Mr. Marshall that whether or not the RRC chose to take the issue to the Solid Waste Committee, it was still his privilege to do so. Chair McFarland said however, that she was somewhat uncomfortable with Mr. Marshall's statement as to loss of Metro's integrity and ethics, etc. Chair McFarland said it was not her view that Metro was not acting in good faith due to the decision they made to not allow the expenditure of the tax payer's money for the expansion of that facility. She further stated that withdrawal of the bid did not cast a pall or degrade the image, integrity or the best intent of the Council, and Chair McFarland said she was uncomfortable with Mr. Marshall's bringing that into the discussion.

Mr. Marshall said that he had not stated his position clearly, and that for what it was worth, he believed that the decision to withdraw the bid, given what had happened to the wastestream was, a) correct and b) courageous. Mr. Marshall said he wanted it to be known that he was not challenging the integrity of the Council at all, but was simply wondering if it would have an effect on their going to the market place in the future.

Mr. Thaler asked Mr. Marshall if A.C. Trucking had come to the RRC previously (more than a year ago) with a request for reduction of a dump fee in order to remain competitive.

Mr. Marshall replied he had not but that a year ago they received an increase.

Mr. Thaler said that if A.C. Trucking used the \$19.00, that would put them \$3.00 over the Metro fee and would that leave Calcagno competitive?

Mr. Marshall said yes, but at the same time he didn't know what was happening to River Bend, he didn't know the timing of their increase nor the amount. He said they were previously told that it would be July 1. Because of the uncertainty of the Yamhill County referendum, as well as the rate request change for River Bend, I think it would be best to table A.C. Trucking's rate review request for a week and allow us to determine the effects of all of the changes, if that is agreeable with the RRC.

James Cozzetto asked Mr. Marshall if the other bidder involved in the RFP requested any type of compensation from Metro due to Metro's cancellation of the bid?

Mr. Marshall answered that he had no knowledge that they did.

Chair McFarland stated that because of uncertainties of A.C. Trucking with regard to their request, she asked the RRC if they were willing to table the request at this time and reconsider at another time.

Mr. Carter asked if Mr. Marshall would return and use as the basis for A.C. Trucking's rate request, the expenses associated with the RFF or would he use as a basis other costs.

Mr. Marshall said they would reconsider on what basis the request would be resubmitted.

Chair McFarland asked if Mr. Marshall was formally withdrawing the request as it was now written.

Mr. Marshall said he was, but asked for reconsideration at their earliest convenient date.

Discuss Documentation of FY 1992-93 Rate-Setting Process

Mr. Stone said this was a first rough cut of an overview of the rate setting process in which the committee members have participated. The purpose of this paper to document the rate setting process and to provide the basis for employing an independent firm to review Metro's process and provide comments in that respect.

Mr. Carter explained that during the performance audit by Peat, Marwick, Mitchell, it was reflected in their audit that Metro's rate setting process had not been documented and they suggested to the Council that it be done. Mr. Carter said this document was the first attempt to comply with that request. Mr. Carter further explained that there were several documents referred to in the paper which committee members had previously received but he would be happy to provide to those members requesting them additional documentation.

Chair McFarland asked the committee members to review the document and report their findings at the next RRC meeting. Chair McFarland stated she would prefer to have at least one member of the RRC participate in the independent firms' review process.

Mr. Hall said it was his recollection that the audit by Peat Marwick suggested that an independent firm should be employed to examine such things as the mathematical model and the costs that are included or not included in the rationale behind that process, but not to examine the political process. Mr. Hall suggested that some of the process be changed before next year's rate setting process.

Chair McFarland said that on behalf of the committee they would accept this document for consideration and members would report at a later date any changes or corrections they felt appropriate.

Mr. Hall commented that he had hoped the Solid Waste Committee or the staff would recommend a year's workload for the RRC and suggested times for meeting. Mr. Hall suggested there might be enough material for the RRC to review that they should meet more than every other month.

John Houser, restated Mr. Hall's request for clarification, said for the next RRC meeting he would like an outline of potential meeting dates for the remainder of this year as well as

potential dates for next year; a timeline for determining how we will proceed with the process of getting an independent firm to review the process.

Chair McFarland stated it was important that Mr. Marshall be notified as soon as possible of the next meeting date so he would have an opportunity to make his presentation for a rate adjustment.

Mr. Hall suggested staff might prepare a list of potential independent reviewers and to also investigate successful rate programs for municipalities elsewhere.

Chair McFarland asked committee members to communicate with staff if they are interested in participating in the independent review of the rate process.

Chair McFarland stated the remainder of the agenda items had been reviewed as one item and asked if there were any further comments. Chair McFarland commended the members of the committee with their promptness and in their reporting to the Council. Chair McFarland also commended the staff for getting the information to the committee members in a timely manner.

After discussion, the next meeting date was scheduled for Wednesday, July 1, 1992.

The meeting was adjourned at 6:15 p.m.

Solid Waste Department Responses to KPMG Peat, Marwick's
"Performance Audit of Metro's Solid Waste Function"

SOLID WASTE RATE SETTING POLICIES

13. Metro should develop methodologies to evaluate the impact of rate incentives aimed at reducing solid waste.

We agree! At least one (1.0) full-time-equivalent position should be assigned to assess the effectiveness of all Solid Waste rate programs.

14. Metro needs to establish a data base of the generators of solid waste, by industry.

We agree! The Solid Waste and Planning and Development Departments are jointly developing a "modeling" project that will lead to this specific suggestion.

15. Metro needs to establish a prioritization of solid waste reduction initiatives, based on their impact on reducing waste versus the cost of the initiative.

We agree! Such a prioritization can be accomplished if at least one full-time-equivalent position is assigned to evaluate the effectiveness of Solid Waste rate programs, including incentives, coupled with information that will flow from the modeling project mentioned above.

16. Metro needs to develop policy guidelines on the impact of increased costs resulting from operation of two transfer stations in Washington County.

The assumption of increased costs resulting from operation of two transfer stations in Washington County is not necessarily true. The need to develop policy guidelines is being addressed in the Washington County System Plan which results from the Metro Council's adoption of Policy 16.0 of the Regional Solid Waste Management Plan and Metro Council Resolution No. 89-1156.

17. Metro should expand efforts to reduce solid waste generation.

We agree! However, we do believe that greater effectiveness can be gained by pushing "Buy Recycled", "Home Composting", and "Office Paper Recycling" programs in the near-term.

18. Metro should finance solid waste source reduction incentives through the solid waste rate-base, rather than through general revenues.

We agree from a purely economic standpoint, however, as these programs do cost money, - money that is being paid by another segment of rate payers, we strongly believe that these costs should be clearly shown in the budget!

ROLE OF THE RATE REVIEW COMMITTEE

19. Representatives of Metro staff, Council staff, and the Rate Review Committee should be appointed to an ad hoc task force to clarify and clearly articulate the role of the Rate Review Committee.

We agree!

20. Metro should change the composition of the Rate Review Committee.

Changing the composition of the Committee to allow the inclusion of hauler representative/s would be positive in our opinion. Other changes would have to be carefully considered.

21. The Rate Review Committee Should Report to the Council.

We disagree but are open to discussion about how to make the committee more effective in meeting the needs of the entire agency.

22. The Rate Review Committee should be provided with adequate time to review proposed solid waste rates.

We agree!

23. The Rate Review Committee should be charged with responsibility for the review of proposed direct and indirect expenses used to determine the solid waste rates.

We have no objections to the committee's review of either direct or indirect expenses used to determine solid waste rates. The committee must be concerned with the sensitivity of "proposed" expenses prior to being approved and submitted by the Executive Officer as a part of the annual "Proposed" budget. /