

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF TRANSFERRING)	RESOLUTION NO. 85-585
SOLID WASTE DISPOSAL FRANCHISE)	
PERMIT #1 FROM MARINE DROP BOX)	Introduced by the
CORPORATION TO MARINE DROP BOX)	Executive Officer
SERVICE AND FOR GRANTING A VARI-)	
ANCE FROM USER FEE AND REGIONAL)	
TRANSFER CHARGE COLLECTION)	
REQUIREMENTS)	

WHEREAS, Section 5.01.090 of the Metropolitan Service District (Metro) Code requires that a franchisee may not transfer its franchise unless an application has been filed in accordance with Section 5.01.060 of the Metro Code and has been granted the transfer approval by the Council; and

WHEREAS, Marine Drop Box Corporation was granted Franchise Permit No. 1 to operate a solid waste processing facility at 6849 N. E. 47th, Portland, Oregon; and

WHEREAS, Marine Drop Box Corporation has transferred ownership and operation of this facility to Marine Drop Box Service and has requested that Franchise Permit No. 1 be transferred to Marine Drop Box Service; and

WHEREAS, Marine Drop Box Service has filed the appropriate application and has met the requirements of Sections 5.01.090 and 5.01.060 of the Code as set out in the Staff Report; and

WHEREAS, Marine Drop Box Service has applied for a variance from the Metro Code Sections relating to collection of User Fees and Regional Transfer Charges pursuant to Metro Code Section 5.01.110; and

WHEREAS, Marine Drop Box Service has met the purpose and intent of the variance criterion under Metro Code Section 5.01.110 for a variance from User Fee and Regional Transfer Charge collection; and

WHEREAS, Variances maybe granted subject to annual review by the Executive Officer; now, therefore,

BE IT RESOLVED,

1. That the Council of the Metropolitan Service District authorizes the transfer of Solid Waste Disposal Franchise Permit No. 1 from Marine Drop Box Corporation to Marine Drop Box Service.

2. That the requested variance from the Metro Code requirements for collection of User Fees and Regional Transfer Charges be granted, but that the variance be reviewed annually by the Executive Officer. If, in the opinion of the Executive Officer, the variance warrants review it shall be considered by the Council.

ADOPTED by the Council of the Metropolitan Service District this 25th day of July, 1985.



Ernie Bonner, Presiding Officer

RM/gl
3881C/405-3
07/15/85

STAFF REPORT

Agenda Item No. 8.1

Meeting Date July 25, 1985

CONSIDERATION OF RESOLUTION NO. 85-585 TRANSFERRING SOLID WASTE DISPOSAL FRANCHISE PERMIT NO. 1 FROM MARINE DROP BOX CORPORATION TO MARINE DROP BOX SERVICE, AND GRANTING A VARIANCE FROM USER FEE AND REGIONAL TRANSFER CHARGE COLLECTION REQUIREMENTS.

Date: July 15, 1985

Presented by: Rich McConaghy

FACTUAL BACKGROUND AND ANALYSIS

Marine Drop Box Corporation has operated a processing facility under a limited Agreement with the Metropolitan Service District since 1977 and under Solid Waste Disposal Franchise Permit No. 1 since April 22, 1982. The primary activity in which the business is involved is the collection of dunnage and debris from ships and the sorting out of useful wood, rope, cable, turn buckles, metal clips, and wire which is then sold for reuse or for salvage. Approximately 90 percent of the material received is reused or recycled. Mr. H. R. Miller has requested the transfer of the franchise from Marine Drop Box Corporation to Marine Drop Box Service which will be operated as a partnership by Mr. Paul Pietrzyk and Mr. Dean Smith. The operation of the processing facility under the new ownership will continue at the same site using much of the same equipment and will remain essentially the same as under the previous ownership.

In order to transfer the franchise, a transfer application must be filed and a resolution adopted as set out in the Metro Code Section 5.01.090, Transfer of Franchise. That section requires the submission of a formal application which satisfies the conditions of Metro Code Section 5.01.060, Application for Franchise. As of June 26, 1985, the transferee has met all of the conditions by providing a completed application along with: (1) proof of ability to obtain required insurance and bonding; (2) a letter of proposed transfer from the existing franchisee; (3) information on the ownership of Marine Drop Box Service; and (4) the signed consent of the property owner.

The new operators of the Marine Drop Box Service have also requested (Exhibit "A") that they be exempted from having to collect User Fees and Regional Transfer Charges on the materials which they receive through the granting of a variance to Metro Code Section 5.01.150 (User Fees), Section 5.02.045 (User Fees), and Section 5.02.050 (Regional Transfer Charge). A variance may be granted under Metro Code Section 5.01.110 (Variances) when it is requested in writing and when facts are presented to show why it should be

granted. The Council may grant a variance to a Section of the Metro Code if it "...finds that the purpose and intent of the particular requirement can be achieved without strict compliance and that strict compliance:

"(1) is inappropriate because of conditions beyond the control of person(s) requesting the variance; or

"(2) will be rendered extremely burdensome or highly impractical due to special physical conditions or causes; or

"(3) would result in substantial curtailment or closing down of a business, plant, or operation which furthers the objectives of the District."

The request for a variance indicates that compliance with the requirements to collect User Fees and Regional Transfer Charges is burdensome and impractical considering the size of the operation and the small amount of revenue generated for Metro and that issuance of a variance is consistent with the Metro Code. It is the intent of Metro Code Section 5.01.040(a)(5)(d) that solid wastes which are reused or recycled should not be subject to the collection of User Fees or Regional Transfer Charges. However, at this facility, Metro charges are currently collected on both the materials which are salvaged through the operation for reuse or recycling and on the incidental waste which is disposed in a landfill. The effect of granting the variance would be to eliminate Metro charges from those materials which are reused or recycled. Metro fees would continue to be collected on that portion of the material which is landfilled (approximately 10 percent of the volumes processed). Losses in Metro revenue from granting the variance are estimated at \$430 in User Fees and \$530 in Regional Transfer Charge receipts per year. Granting of the variance would eliminate the administrative requirements from the franchisee for managing Metro charges and would be an incentive for this type of operation which reduces the amount of waste which is landfilled and increases the amount of material which is reused or recycled.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 85-585. It should be noted that a similar variance was recently granted to Oregon Waste Management through Resolution No. 84-522, exempting from Metro fees those wastes which are recycled. Council should examine potential policies for exempting reusable or recyclable materials from Metro fees at any point prior to disposal and consider the adoption of region-wide policies.

RM/gl
3881C/405-4
07/16/85

EXHIBIT A
MARINE DROPBOX SERVICE
6849 N.E. 47TH
PORTLAND, OREGON 97218

JULY 10TH. 1985

METROPOLITAN SERVICE DISTRICT,
527 S.W. HALL ST.,
PORTLAND, OREGON 97201

ATTENTION:
RICH McCONAGHY

MARINE DROPBOX SERVICE WOULD LIKE TO REQUEST A VARIANCE TO METRO CODE SECTION 5.01.150 (USER FEES), SECTION 5.02.045 (USER FEES) AND SECTION 5.02.050 (REGIONAL TRANSFER CHARGE). THIS WOULD ELIMINATE THE REQUIRED COLLECTION OF USER FEES AND REGIONAL TRANSFER CHARGES AT OUR FRANCHISED DISPOSAL PROCESSING FACILITY.

GRANTING OF THE VARIANCE WOULD FURTHER THE OBJECTIVES OF THE OREGON OPPORTUNITY TO RECYCLE ACT OF 1983 AND METROS DISPOSAL FRANCHISE ORDINANCE AND WASTE PRODUCTION PLAN. OUR OPERATION MEETS METRO GOALS BY REDUCING THE AMOUNT OF WASTES DISPOSED IN LANDFILLS AND BY ALLOWING FOR THE REUSE AND RECYCLING OF WHAT WOULD OTHERWISE BE A LOST RESOURCE. GRANTING OF THE VARIANCE WOULD ACHIEVE THE PURPOSE AND INTENT OF THOSE REQUIREMENTS FOR WHICH A VARIANCE IS REQUESTED. IT IS NOT INTENDED THAT USER FEES AND THE REGIONAL TRANSFER CHARGE BE COLLECTED ON THOSE MATERIALS WHICH ARE REUSED OR RECYCLED (5.01.040 (5)(D)). USER FEES AND REGIONAL TRANSFER CHARGES ARE, AND WILL CONTINUE TO BE ASSESSED ON THAT INCIDENTAL PORTION OF THE MATERIALS THAT WE PROCESS WHICH IS NOT REUSED OR RECYCLED WHEN IT IS DISPOSED AT A LANDFILL. GRANTING OF THE VARIANCE ALSO WOULD BE IN THE INTEREST OF THE PUBLIC, HEALTH, SAFETY AND WELFARE AS ORS 459.015 ESTABLISHES REUSE AND RECYCLING AS PRIORITY METHODS FOR CONSERVING ENERGY AND NATURAL RESOURCES.

THE CONTINUED STRICT COMPLIANCE WITH THE REQUIREMENTS FOR WHICH A VARIANCE IS REQUESTED WOULD BE EXTREMELY BURDENSOME AND HIGHLY IMPRACTICAL DUE TO THE NATURE AND SCALE OF OUR OPERATION. OUR OPERATION IS RELATIVELY SMALL (WITH A MAXIMUM OF FOUR EMPLOYEES) AND THE NATURE OF OUR BUSINESS IS SOMEWHAT SEASONAL. OVER THE LAST YEAR WE HAVE HANDLED ON THE AVERAGE ABOUT 400 CUBIC YARDS OF MATERIAL PER MONTH. USER FEES AND REGIONAL TRANSFER CHARGES ASSESSED BY METRO ON THESE QUANTITIES COME TO ABOUT \$220.00 PER MONTH. WE ARE CREDITED FOR THE USER FEES AND REGIONAL TRANSFER CHARGES WHICH WE HAVE TO PAY AT ST. JOHNS OR KILLINGSWORTH LANDFILLS ON INCIDENTAL WASTES WHICH WE RECEIVE. OUR AVERAGE MONTHLY PAYMENTS TO METRO FOR USER FEES AND REGIONAL TRANSFER CHARGES END UP TO BE LESS THAN \$80.00 PER MONTH. THE AMOUNT OF PAPERWORK AND THE ACCOUNTING PROCEDURES WHICH ARE NECESSARY TO COLLECT AND MANAGE THE USER FEES AND REGIONAL TRANSFER CHARGES ARE DISPROPORTIONATE TO THE BENEFIT PROVIDED TO METRO AND ARE BURDENSOME ON AN OPERATION AS SMALL AS OURS.

THEREFORE, WE REQUEST THAT OUR OPERATION BE GIVEN A VARIANCE FROM THE REQUIREMENTS TO COLLECT USER FEES AND REGIONAL TRANSFER CHARGES.

SINCERELY,

Dean M. Smith
Paul M. Pietrzyk
DEAN M. SMITH & PAUL M. PIETRZYK.

INDUSTRIAL • COMMERCIAL • RESIDENTIAL

Metro Council
July 25, 1985
Page 10

The Presiding Officer suggested that if petitions were heard on a case-by-case basis, staff prepare background information that would include a regional perspective of land use. Ms. Hinckley said staff was preparing an industrial land inventory which would be entered into the record.

In response to Councilor Kafoury's question, Ms. Hinckley said the examination of Clackamas County's subregional needs would be considered in the petition process. She said she would suggest an amendment to the Ordinance on August 6 to clarify how and when this should be considered.

7.2 Consideration of Ordinance No. 85-190, for the Purpose of Amending Metro Code Section 2.05.045, Final Orders in Contested Cases (First Reading)

The Clerk read the Ordinance by title only.

Motion: Councilor Kirkpatrick moved the Ordinance be adopted and Councilor Waker seconded the motion.

There was no public or Council comment on the Ordinance. Presiding Officer Bonner announced a second public hearing would occur on August 6.

8. RESOLUTIONS

8.1 Consideration of Resolution No. 85-585, for the Purpose of Transferring Solid Waste Disposal Franchise Permit No. 1 from Marine Drop Box Corporation to Marine Drop Box Service and Granting a Variance from User Fee and Regional Transfer Charge Collection Requirements

Rich McConaghy reported the Resolution would transfer the franchise from a former owner to a new owner. He then explained the disposal site operation as discussed in the staff report. He said the new owner had requested a fee variance because a large portion of the materials handled were recycled or reused. The owner would continue to pay user fees for materials landfilled, he said. In response to Councilor Gardner's question, he explained the original owner did not request a user fee variance but a similar variance was granted to another franchisee in January.

In response to Councilor Van Bergen's question, Mr. McConaghy said Metro did not limit the number of franchises granted. The new owner requested a transfer of the franchise and the transfer process required compliance with strict application, bonding and insurance requirements.

A discussion followed about the regional effects of granting user fee variances. Dan Durig explained variances had been granted to recyclers to encourage recycling. The current financial impact would be slight, he said, because few variances had been granted. However, he said, if more variances were granted and significant quantities of material were removed from the waste stream, substantial user fee revenues could be lost. If that were to occur, Metro would re-examine its policies, he explained.

Councilor Gardner's said he was confused about Metro's official policy regarding user fees for recycling. Mr. Durig explained the Metro Code did not grant exemptions for recyclables. However, Metro granted its first variance to Oregon Waste Management to evaluate the impact of the waiver. Staff were currently reviewing Metro's Solid Waste rate policies to determine whether a Code amendment should be considered, he said. In response to the Presiding Officer's concerns, Mr. Durig said the Solid Waste Policy Advisory Committee would review these matters and make a recommendation to the Council.

Motion: Councilor Kirkpatrick moved the Resolution be adopted and Councilor Kelley seconded the motion.

Vote: A vote on the motion resulted in:

Ayes: Councilors Gardner, Kirkpatrick, Kafoury, Kelley, Van Bergen, Waker and Bonner

Absent: Councilors Cooper, DeJardin, Hansen, Myers and Oleson

The motion carried and the Resolution was adopted.

8.2 Consideration of Resolution No. 85-581, for the Purpose of Naming the Zoo Elephant Museum in Honor of Lilah Callen Holden

Note: Agenda Item No. 9.1, Consideration of Criteria and Guidelines for Naming Zoo Exhibits and Public Spaces in Honor of Individuals, was considered before Item No. 8.2. For recording purposes, however, Item 9.1 is discussed after Item No. 8.2.

Presiding Officer Bonner said Ms. Holden's contributions to the Zoo had been outstanding and supported adoption of the Resolution.

Motion: Councilor Kafoury moved to adopt the Resolution and Councilor Kirkpatrick seconded the motion.

Vote: A vote on the motion resulted in: