

METRO

Agenda

Planning and Development
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MEETING: Solid Waste Policy Committee

DATE: January 10, 1992

DAY: Friday

TIME: 7:30 - 9:30 a.m.

PLACE: Council Chamber
Metro Center
2000 S.W. First Avenue
Portland, OR 97201

I. Committee Members and Citizen Communications

Judy Wyers

II. Approval of Minutes from September 20, 1991 meeting

Judy Wyers

III. Updates

Rich Carson

IV. Discussion of New Solid Waste Planning Programs in 1992

Becky Crockett

Program Presentations

- Plastics and Packaging
- Conditionally Exempt Generator (CEG) Waste Management
- Facility Regulation

Tamira Clark
Michael Sievers
Mark Buscher

V. Adjourn: Next Meeting February 14, 1992

Judy Wyers

SOLID WASTE POLICY COMMITTEE

September 20, 1991

Committee Members Present

Judy Wyers, Chair, Metro Council
Jack Adams, Cities of Multnomah County
Brian Campbell, Port of Portland
Susan Keil, City of Portland
Sharron Kelley, Multnomah County
Delyn Kies, Washington County
Cecilia Petrocco, Cities of Washington County

Staff Members Present

Mark Buscher, Planning and Development Department
Rich Carson, Planning and Development Department
Tamira Clark, Planning and Development Department
Becky Crockett, Planning and Development Department
John Houser, Council Staff
Henry Markus, Planning and Development Department
Ron Nagy, Solid Waste Department
Todd Sadlow, Office of General Counsel

Visitors Present

Jim Rapp, City of Sherwood
Pat Vernon, Department of Environmental Quality

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Protocols

Committee Chair Judy Wyers brought the meeting to order. There were no committee member or citizen communications.

Minutes

Ms. Wyers called for the approval of the Solid Waste Policy Committee meeting minutes. Passed.

Updates

Becky Crockett updated the Committee on the status of the Washington County Plan. She indicated that the Chapter and the Request for Franchise Document (being prepared by the Solid Waste Department) is scheduled on the October 1, 1991, Council Solid Waste Committee (CSWC) Agenda for Public Hearing.

Ms. Crockett informed the Committee that Metro and DEQ are working together on a CEG Hazardous Waste Collection Event scheduled at Metro Central on October 10-11, 1991. The deadline for pre-registration is September 23, 1991.

Ms. Crockett advised the Committee that since Metro's permanent household hazardous waste facility has been delayed in opening, a Household Hazardous Waste Collection Event is scheduled for October 12, 1991.

Ms. Crockett informed the Committee that the October Policy Committee meeting is canceled and that the next meeting is scheduled for November 8, 1991, with the Household Hazardous Waste Chapter on the agenda.

Action Item – Approval of Model Zoning Ordinance

Ms. Crockett presented background information on the Model Zoning Ordinance to the Committee. She referred to a recommended change to Chapter 16.0 as stated in Rich Carson's September 11, 1991, memo to the Policy Committee. There have been major revisions to the ordinance for siting solid waste facilities. The Ordinance in its original form was approved by the CSWC. Questions were raised by Council members and directed to Legal Counsel prior to forwarding the Ordinance to the entire Council. Legal Counsel did not feel comfortable with the way the Ordinance was written. Specifically, the Ordinance contained reference to DEQ's standards dealing primarily with environmental issues. Legal Counsel did not feel that Metro could defend DEQ's standards as clear and objective. Their feeling was that if Metro were taken to court a local government might be able to effectively prohibit the siting of solid waste facility by using these referenced standards. The Regional Solid Waste Management Plan (RSWMP) policy states specifically that local governments

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have to do everything that they can to make sure that they do not prohibit those facilities. With this information, Legal Counsel made major revisions of the document. They took out all the references to the DEQ standards. Now the Model Ordinance contains only one option (originally there were four). They also worked extensively on the definitions and conferred with other legal persons that deal with our solid waste facilities (Waste Management, Jack Gray, etc.). The changes to the Model Ordinance were approved by the Land Use Subcommittee and by the Solid Waste Technical Committee.

Jim Rapp, Land Use Subcommittee Chair, addressed the Committee regarding the Model Ordinance. He emphasized two items that were of concern to the Subcommittee: 1) this is just a model, one way local communities can meet the mandates of the RSWMP; and 2) concern of the removal of the options. The options gave local governments an opportunity to assert itself in the process; to get a good understanding of what was being proposed and what the impacts would be; and to dove-tail that into their approval process. Under the revised draft, local governments can effectively know something about a facility and its impacts which causes great concern, but not be able to do anything about it until the DEQ process to make its position heard. It is understood that local governments could put the DEQ standards back into the document. Mr. Rapp stated that the City of Sherwood has done this.

Ms. Crockett informed the Committee that there were additional technical changes made by Legal Counsel after the Ordinance was reviewed by the Solid Waste Technical Committee and the Land Use Subcommittee. She referred to the Todd Sadlow's September 11, 1991, memo included in the agenda packet which addressed the changes.

Ms. Wyers asked if the Committee had questions of Todd Sadlow, Legal Counsel.

Delyn Kies asked why the definition of "disposal" was removed.

Mr. Sadlow explained that it was felt the definition which appeared to have been developed mostly to deal with superfund situations/illegal disposal did not seem to fit in the way it was being used in this ordinance in terms of disposal facilities. The term disposal the way we were are using it is a common sense use of the term and really does not need to be defined.

Ms. Kies asked if the definition of disposal facility that is in ORS 459 would not be appropriate as well because you specifically identified the facilities that you are talking about?

Mr. Sadlow stated that he felt that it was not being used in any special sense in the ordinance and there is no reason to have a definition.

Susan Keil asked if by removing the options, Metro was looking to be more in control, giving less flexibility to the local jurisdictions? What is the reason for doing this?

Mr. Sadlow stated that the problems that would be raised by an appeal make it very difficult for a local government to take care of an appeal that includes the DEQ standards as approval criteria. He felt that this is not something that is a model situation for a local government. If a local government wants to do it, they can and be in conformance with the RSWMP, but to encourage that seemed to be inappropriate.

Ms. Wyers asked how it affects the local governments? Does it in effect bind them in a different way or make their option fewer?

Mr. Sadlow felt that it did not. He stated that the idea that we are presenting this as a model and then we say all of these different options are all models, when they are not. He stated that he would not recommend to a local government to attempt to apply standards that were developed for purposes of pollution control permitting as land use approval criteria, especially not in Oregon system where there is a whole different regiment for judging land use decisions.

Ms. Keil asked why a local jurisdiction would select that option, if they saw that? Why would they pick the worst case scenario? Nonetheless, are we trying to narrow their choices?

Mr. Sadlow stated that it was not a matter of narrowing what they can do since we have already told them that if they decide to do that it still meets the RSWMP requirements, but it is the idea of encouraging something that from a legal policy standpoint is probably not a good thing for them to do. It is appropriate for a local jurisdiction to do it, but for Metro to come out and say these are equal options from a legal and policy standpoint equally desirable presents a false picture to a local jurisdiction who is depending on Metro to give them something that will work. A model should reflect what the best approach is.

Rich Carson stated that one of the concerns was that local jurisdictions have decisions to make in the land use arena and DEQ has decisions to make in the environmental area. Having two sets of authorities deciding on these issues would be like allowing DEQ basically to handle rezoning cases for a city. The intent is to separate those authorities.

Ms. Wyers asked what kinds of facilities are expected to fall under this Ordinance?

Ms. Crockett responded that household hazardous waste facilities in Multnomah and Washington Counties, and facilities to manage substreams related to special waste would be the most critical in dealing with environmental standards.

Ms. Wyers called for a vote. Approved.

Ms. Crockett called attention to a proposed amendment to Chapter 16 of the RSWMP as stated in Rich Carson's September 11, 1991, memo to the Solid Waste Policy Committee (included in the agenda packet). She stated that the amendment was to clarify that if a local government wants to

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pursue development of clear and objective standards different than what Metro has suggested be done pursuant to the Model Zoning Code, that the local government submit to Metro the findings of fact that justify that whatever option they use different than the Model Ordinance does meet the policy of the Plan whereby there are clear and objective standards that will not effectively prohibit the siting of solid waste facilities. Essentially, the burden of proof is on the local government to submit those findings that they have complied with Metro's policy if they do something different than the ordinance.

Ms. Kies asked if a local government stated that they wanted to use the DEQ options and provided evidence, would they be found to be clear and objective standards that could be included in the local government ordinance?

Mr. Sadlow stated that he thought that they would be.

Ms. Kies stated that if the DEQ standards were not in the local ordinance, the local government could be in the situation of having information relating to those standards, but not being able to deal with them; being in a position of approving a facility while knowing some legitimate information that they could not consider and they would not be able to deal with that information until the DEQ process.

Mr. Sadlow stated that the attempt was to retain all of the provisions that related to tying the two processes together. Local governments can request that all the information being submitted to DEQ be submitted to them. We retained the provisions that if a DEQ decision does not reflect what they thought it was going to be, that they can bring the whole thing back and attach additional conditions or change the decision. The idea was not to separate the two and say that DEQ is on their own and we are not going to have anything to do with what happens there. The intent is that in appropriate circumstances a local government can have some idea of what is going on at DEQ and if they want to participate in the DEQ process, they can do so as well.

Ms. Kies suggested that a memo accompany the Ordinance explaining the pros and cons of using the DEQ standards.

Mr. Sadlow stated that this type of information had already been developed.

Ms. Wyers asked for feedback from the local governments regarding Mr. Carson's September 11, 1991, memo. Were they ready to recommend these amendments or is there a need to talk about them?

Ms. Kies stated that the Technical Committee recommended approval of it.

Jack Adams stated that he needed to check with his people.

Ms. Keil stated that she needed to talk with planning and legal.

Mr. Carson stated that it would be good to keep the amendment with the Model Zoning Ordinance. He felt that this amendment was more of help to the local jurisdictions as Metro will be looking that piece whether the findings are provided or not.

The suggested revision to Chapter 16 was voted on and approved.

Action Item -- Approval of Illegal Dumping Chapter of the Regional Solid Waste Management Plan

Ms. Crockett stated that at the CSWC meeting on July 2, 1991, the Committee raised several concerns with the document. The primary issue was that there was not definitive evidence that indicated that as you increase tipping fees you get a corresponding increase in illegal dumping. The Committee asked us to go back to find evidence, to find description of what is happening in local governments as far as cost associated with clean up and has the cost been increasing as we have been increasing the tip fees. The Committee also wanted us to include references to House Bill 3361. They were concerned about the concept of a regional hearings officer. They requested that in the Chapter that we be more descriptive about how that would work, what options were available for putting that kind of a system in place. They wanted to provide cost data that indicated or justified some of the program recommendations that were in the Chapter, we have a lot of cost information about what is currently going on in the region though it is still difficult to suggest that those costs can be directly related to program recommendations that are in the Chapter. Councilor McFarland stated that Metro should not identify in the Chapter behavioral causes for illegal dumping, these references have been removed. The Committee asked the Planning staff to shorten chapters and make them more readable.

With these requests, the Chapter went back to the Illegal Dumping Subcommittee. The Subcommittee worked through the recommendations from the CSWC and proceeded to make the necessary changes to address all the concerns raised by the CSWC. In addition, the Solid Waste Technical Committee brought up two fundamental issues in the Chapter: 1) they wanted highlight the correlation between increased tipping fees and increased incidences of illegal dumping even though we could not find definitive evidence to suggest that is the case; and 2) they wanted to point out their concerns with the concept of providing trash receptacles in areas where illegal dumping seems to be a problem, they felt that by placing receptacles throughout the region to potentially eliminate illegal dumping you would actually encourage people to dispose of their waste at these receptacles because in the metropolitan region we do not have mandatory collection service. So with that in the Chapter, we pointed out that if a local government wants to look at providing receptacles that they need to man those places and, in addition, before they make that decision they need to equate the cost of manned depot for this kind of waste with having to actually go out and clean up an illegal dump site. The Solid Waste Technical Committee approved it with those two concepts identified explicitly in the Chapter. It then went back to the Illegal Dumping

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Subcommittee which then suggested additional amendments: 1) the need for an effective promotion/education program dealt with by Metro and local governments; 2) local governments should assess the feasibility of working with neighborhood associations and citizens to put on clean up events.

Ms. Kelley stated that Pat Merkle asked to add that local governments should regulate the collectors of tires.

Ms. Keil suggested that more of the \$1.00 DEQ surcharge for tires be directed to the metropolitan area.

Pat Vernon stated that she understood that the \$1.00 charge for tires was initiated to eliminate the large tire piles; with DEQ's point system, waste tire clean up in the Portland area was initially given 30 points, which gives an advantage to the metropolitan area.

Ms. Kelley reiterated that the Subcommittee did not have a handle on the waste tire issue and after the Chapter is adopted, it will need to continue to evolve to handle issues as they arise.

Ms. Kelley read to the Committee recommended language to be added to the Chapter, "work with local collectors to ensure that waste tires are properly disposed or recycled."

Ms. Crockett stated that this language would be added to the Local Government Program Requirements (4-17).

Ms. Keil stated that there should be an education program.

Ms. Kelley stated that Ms. Merkle was suggesting that additional regulations needed to control flow of tires for people who are responsible for tire disposal. She stated that the Subcommittee is encouraging local governments to look at creating additional regulations to control illegal dumping of waste tires.

Mr. Carson questioned whether local governments had the authority to regulate this issue.

Ms. Keil suggested that whatever is done every jurisdiction should do it so that people are not transporting from one area to another. She then asked what we do with the Chapter after it is adopted?

Ms. Wyers asked when a model ordinance is expected?

Ms. Crockett informed the Committee that when the Chapter is adopted by the Metro Council, it puts in place the initiation of the work program by Metro and by local governments. The timeline for completion of the model ordinance is December 1992. That date was set in part to effectively

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address the option of the regional hearings officer, which is anticipated to take a lot of discussion on the part of the policymakers. There is a question about how to set up the regional hearings officer, who is going to do that, will it be an adjunct to Metro's General Counsel office or is it going to be contracted out by local governments? The first step to getting that on board is local governments accepting to put in place consistent enforcement standards regionwide so we can have an effective regional hearings officer system. If local governments continue to have such diversity in enforcement mechanisms, it would be extremely difficult for a regional hearings officer process to be put in place.

Ms. Kies suggested that a sentence be added to state "that this is our best guess at this point."

Ms. Wyers suggested "that changes are expected or encouraged."

Ms. Keil stated that she felt the blame should be related to the increase in the garbage rate rather than tipping fee. She said that it does appear to be the case that when garbage rates go up, illegal dumping increases.

Ms. Crockett stated that this issue was addressed by expanding the concept of cost the statement now reads, "continuing increases in the cost of solid waste collection, transport, recycling, processing and disposal are causes of illegal dumping." She stated that the phrase "tipping fee" would be adjusted throughout the Chapter.

Ms. Wyers asked what the best case scenario was for how to deal with clean up in other areas of the country?

Ms. Crockett suggested that it is several things; some jurisdictions have put policemen on their staff to watch for people. She felt that a good program of education followed up by an effective enforcement program is what would work best for this region as stated in the Chapter. Consistency regionwide is necessary to have an effective enforcement program.

Ms. Wyers asked John Houser to have as a budget discussion on how Metro can do some educational programs to help with the illegal dumping problem.

Ms. Vernon suggested several changes to the Chapter.

- Page 4-9, last paragraph: reference large and bulky items (furniture and appliances).
- Page 4-12, first paragraph, second sentence change to say: "Currently DEQ has participated in community clean up efforts in an advisory capacity only."
- Page 4-12, first paragraph, last sentence change to say: "The point system takes into account a number of criteria including pile size, characteristics of the site and size of the nearest affected community."

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- Page 4-12, third paragraph, change to: "While DEQ's waste tire program has been effective in controlling large tire piles throughout the state, it has not been used on sites with less than 1,000 tires."
- Page 4-19, DEQ Responsibility change to include: "DEQ will continue to develop legislative measures to deal with tires and illegal dumping."

Ms. Kies stated that she would like to include the cost of code enforcement on page 4-17.

Ms. Keil suggested that Metro get the model ordinance out without the hearings officer section and make that an appendix later.

Ms. Wyers called for a vote. Approved with suggested amendments.

Meeting Schedule

Next meeting was scheduled for Friday, January 10, 1992, 7:30 a.m. in the Metro Council Chamber.

The meeting was adjourned.

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DISCUSSION PAPER PLASTICS AND PACKAGING

The Waste Reduction Chapter of the Regional Solid Waste Management Plan (RSWMP) directs Metro to participate in a statewide or regional task force to research strategies for reducing plastics in the waste stream. Additionally, the Waste Reduction Chapter states that we should promote consumer attention to packaging issues, and develop legislative action to address packaging in the waste stream. Packaging has been measured at 40 to 70 percent of plastics in the wastestream.

Plastics constitute 9.3 percent of the Portland Metropolitan Area wastestream. As other materials are increasingly recycled, plastics waste will increase proportionally. Also of note, the amount of plastics in the wastestream increased significantly from 7.2% in 1987 to 9.3% in 1989.

Plastics recycling in the region has been problematic because of unstable markets based on low virgin resin prices and contamination of collected materials. Interviews with persons involved with plastics recycling in the region have shown that there is no general consensus regarding solving the problems associated with recycling plastic, or on what Metro's role should be. Most people believe that there is a need for issues discussions at a regional level with the goal of providing a consistent message. Moreover, the Coalition for Plastics Recycling (CPR) was recently formed to help stabilize plastics in the Northwest region. The coalitions membership constitutes a cross-section of Oregon collectors, processors, reclaimers, and retailers. The coalition has formed both a short term and long term solutions committee which are presently in the process of identifying critical issues and potential solutions to the current crisis in post-consumer plastics recycling.

The RSWMP further states that Metro shall evaluate amounts, collection options, costs and local participation rates for recoverable materials, and shall place an emphasis on reduction through source separation, and shall assure necessary related public education and promotion.

DISCUSSION PAPER

A MANAGEMENT STRATEGY FOR THE CONDITIONALLY-EXEMPT GENERATION (CEG) OF HAZARDOUS WASTE

What is Hazardous Waste?

The federal Resource Conservation and Recovery Act (RCRA) defines hazardous waste as a solid waste (including liquids and gases) which may:

- * Cause or significantly contribute to an increase in mortality or serious illness; or
- * Pose a substantial hazard to human health or the environment when improperly managed.

The characteristics of hazardous waste are: ignitability, corrosivity, reactivity and toxicity.

What are the categories of Hazardous Waste?

- * Large Quantity Generators (LQG)
- * Small Quantity Generators (SQG)
- * Conditionally-Exempt Generators (CEG)
- * Household Hazardous Waste Generators (HHW)

What is CEG Waste?

Conditionally-Exempt Generation (CEG) hazardous waste is a part of the overall waste stream exempt from regulation. The conditions for its exemption are the following, based upon one month of generation:

- * 1 Kilogram (2.2 pounds) or less of acutely hazardous waste;
- * 100 Kilograms (220 pounds) or less of hazardous waste;
- * 100 Kilograms (220 pounds) or less of spill cleanup debris containing hazardous waste; and

CEG DISCUSSION PAPER

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* Accumulate, at any time, up to 1000 Kilograms (2200 pounds) of hazardous waste on-site.

Who Generates CEG waste?

These wastes are generated by categories that include dry cleaners, laboratories, and vehicle maintenance operations. A January, 1989, Department of Environmental Quality state-wide survey of hazardous waste generators found that 90% of those responding classified themselves as conditionally-exempt generators.

What is the CEG issue?

The CEG issue is complex and will require solutions from several private and public entities to establish long-term management alternatives. Of primary importance will be determining the appropriate roles and responsibilities for managing and regulating this waste. For example, what should Metro's role be? What should the haulers role be? What should the sewage treatment plant operators role be?

What is the CEG strategy?

The management strategy will be developed in part from information obtained from three studies: 1) a CEG waste generator study; 2) a waste generation study; and 3) a best management practices strategy for CEG waste. These studies will create a multi-faceted solution. Further, the strategy will evolve from working with other jurisdictions, businesses, agencies and interested parties.

Who are the CEG players?

Current disposal practices for the material include storm and sanitary sewer systems, hazardous and solid waste disposal facilities, and direct land application. These practices interest, among others, generators, processors, managers of regional facilities, policymakers, environmentalists and private citizens.

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DISCUSSION PAPER FACILITY REGULATION

Policy 9.0 of the RSWMP states that:

"the solid waste management plan shall include methods for regulatory control of solid waste facilities. Such regulatory methods may include a system of franchising, contracting and/or licensing to ensure that needed disposal facilities are provided and are operated in an acceptable manner".

This policy serves to implement Metro's responsibility for ensuring that solid waste is managed in a proper and cost efficient manner. In order to meet this responsibility, it is crucial for Metro to be able to regulate the flow of waste through the system of facilities. This is necessary in order to ensure all facilities within the system operate efficiently; and, that the appropriate solid waste fees are collected to finance regional waste management programs and the operation of major solid waste facilities.

Currently, Metro regulates solid waste facilities such as disposal sites, transfer stations and processing facilities that recover materials from un-sorted loads of waste. Recycling drop centers, disposal facilities that accept only clean fill material, and facilities that receive and process loads of source separated recyclable, recoverable or reusable materials are exempt from Metro's franchise code.

Over the last several years, the region's solid waste system has grown significantly in both its size and complexity. Many new facilities that collect and process different components of the solid waste stream are now operating. A brief list includes yard debris depots, chipping operations and composting sites, wood waste chipping and hog-fuel sites, oil contaminated soils processors, used tire chipping sites, used wall board and sheet-rock processors, white-goods and scrap metal recyclers, and plastics recyclers. It is also common for many of these facilities to receive and process more than one type of material. As an example, yard debris processors often except wood wastes for processing. Many also have residual materials and wastes that flow to other processing facilities or disposal sites.

The facilities described above are typically small operations that receive modest amounts of material. However, their collective impact on waste flows in the system is thought to be significant. It is estimated that there are at least twenty wood waste recycling facilities in the region; eight known oil contaminated soils processors, and over fifteen known yard debris depots, chipping operations and composting sites. The capacity of these facilities is not fully understood, nor is there a method of accurately tracking the volumes of waste received. There is also no way of accurately knowing the actual number of these types of facilities operating in the system. The solid waste operational function of very few of these facilities is regulated by Metro or the State. Local government's regulatory authority is also typically limited to land use.