

June 13, 1991

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING)	RESOLUTION NO. 91-1437B
POLICY FOR DEVELOPMENT OF THE)	
WASHINGTON COUNTY SOLID WASTE)	
SYSTEM CHAPTER TO THE REGIONAL)	INTRODUCED BY:
SOLID WASTE MANAGEMENT PLAN)	Councilor, Tom DeJardin

WHEREAS, Ordinance No. 88-266B adopted the Regional Solid Waste Management Plan in October, 1988; and

WHEREAS, the Regional Solid Waste Management Plan, Policy 16.0, gives priority to local government solid waste management solutions; and

WHEREAS, Resolution No. 89-1156 identifying a process, timeline and minimum standards for development of the Washington County Solid Waste System as a local government solution, was adopted in October, 1989; and,

WHEREAS, Washington County and the cities therein developed a local government solution in accordance with Resolution No. 89-1156 for Metro Council consideration; and

WHEREAS, Resolution 90-1358B recognizing and giving priority to Washington County's local government solution provided it is determined to be consistent with all Regional Solid Waste Management Plan provisions, was adopted in December, 1990; and

WHEREAS, Chapter 13 of the Regional Solid Waste Management Plan establishes criteria for determining the form of facility ownership that best serves the public interest, including that

facilities must be able to adjust to changing circumstances which may require capital improvements, new methods of operation or similar factors; and

WHEREAS, a policy and technical analysis of options for a Washington County solid waste system has been completed; and

WHEREAS, a need for establishing policy based on the policy and technical analysis exist to write the Washington County Solid Waste System chapter to the Regional Solid Waste Management Plan; now, therefore,

BE IT RESOLVED:

1. That the Council of the Metropolitan Service District recognizes and gives priority to the Washington County Solid Waste Plan (local government solution) by establishing the following policies to ensure that the Washington County Plan is consistent with the Regional Solid Waste Management Plan:

a) System Configuration / Tonnage Projections

The west waste shed planning area and corresponding waste tonnage projections should be based on the Washington County boundary delineation with minor adjustments to account for established hauler activities; facility site proposals located in or around Wilsonville should include some Clackamas County waste tonnages; and the regional system should allow for flexibility by initially constructing Washington County facilities based on 10-year tonnage projections (2003).

b) **Number of Transfer / Material Recovery Facilities**

Two transfer/material recovery facilities. Both to be on-line by 1993. The larger facility serving the eastern portion of Washington County and southwestern Clackamas County would have a capacity of approximately 196,000 tons and the smaller facility serving western Washington County would have a capacity of approximately 120,000 tons.

c) **Post-Collection Material Recovery**

Develop material recovery requirements for transfer/material recovery facilities in Washington County through a combination of economic incentives, market factors, facility design requirements and impacts on local programs and facilities to be negotiated by Metro and vendors through the procurement process. Expected recovery at the transfer station is an estimated average of 16%.

d) **High Grade Processing**

A high grade facility should be procured as a component of the Washington County solid waste system. The decision as to whether or not the high-grade function should take place at a separate facility or at a transfer station should be made during the procurement process.

e) **Financing**

Public/private financing; with option for Metro to sponsor Revenue Bonds with a limited Metro pledge.

f) **Rates**

The proposed Washington County local government solution should not obligate the citizens of Washington County to pay more for solid waste disposal than citizens in other parts of the region. The increased cost of the local government solution should be incorporated into the regional rate structure.

g) **Facility Ownership**

Private ownership and operation with public assistance for bond allocation. The transfer facilities shall be classified as major disposal system components and franchised as such in accordance with Section 5.01.085 of the Metro Code. A specific term and condition of the franchise shall be that the facility operator(s) shall adjust to changing circumstances which may require capital improvements, new methods of operation or similar factors in order to ensure continued compliance with the RSWMP as it may be amended.

h) **Vertical Integration**

Allow vertical integration with the requirement that Metro operate transfer station gatehouse(s).

i) Procurement

Competitive long-term franchise process with the option to circulate an RFP, if the private sector is unable to obtain facility financing and meet other criteria established for the franchise. These criteria shall include a cost which is no greater than the cost of a publicly financed facility using the assumptions and methodology in the technical analysis.

j) Land Use Siting

Facility vendors must have the land use permit in hand prior to the procurement process. This does not include site design review or the mitigation agreement that are subject to the procurement process.

k) Flow Control

Allocate waste destined for transfer/material recovery facilities or a general purpose landfill to a transfer/material recovery facility within a designated service area.

These policies are identified as the preferred policy options in the April, 1991 Policy and Technical Analysis for the Washington County System Plan. These policies represent the conclusion of the analysis conducted on various solid waste system options for Washington County.

- 2) That Metro staff shall use the above stated policies to develop the Washington County Chapter to the Regional Solid Waste Management Plan.

ADOPTED by the Council of the Metropolitan Service District
this 13th day of June 1991.



Tanya Collier, Presiding Officer

MINORITY REPORT

CONSIDERATION OF RESOLUTION NO. 91-1437B FOR THE PURPOSE OF ESTABLISHING POLICY FOR DEVELOPMENT OF THE WASHINGTON COUNTY SOLID WASTE SYSTEM CHAPTER TO THE REGIONAL SOLID WASTE MANAGEMENT PLAN

Date: June 13, 1991

Presented by: Councilor DeJardin

PROPOSED ACTION

Resolution No. 91-1437B amends Resolution No. 91-1437A which was approved by the Council Solid Waste Committee (CSWC) on May 21, 1991. Resolution No. 91-1437B eliminates the option for ownership of the transfer station to be located in eastern Washington County to be decided during procurement and eliminates the two different procurement processes. Further, Resolution No. 91-1437B recognizes the need for Metro to maintain the ability to provide for facility changes during a long-term ownership/operations franchise agreement by identifying Metro's authority to do so.

The purpose of Resolution No. 91-1437B is to establish Metro policy and support for the Washington County solid waste plan that is consistent with past Metro action..

FACTUAL BACKGROUND AND ANALYSIS

History:

By 1987 this region had reached a state of crisis in solid waste management. Our landfill was reaching capacity and finding a new site was not achievable by either Metro or the State, the siting of a westside transfer station had failed, our south transfer station was facing threats of closure by Oregon City because it was over capacity. Metro's waste reduction efforts were not being achieved and soon resulted in an Enforcement Order by the Environmental Quality Commission (EQC), and the realization that the region should have already begun planning for an eastside transfer station a year prior was upon us.

In the midst of this difficult time, the Metro Council joined with the Executive Officer and asked local governments to help us. It was decided that Metro was not going to be a successful partner in the region unless we could effectively demonstrate our willingness to work cooperatively with those local governments.

A series of meetings and workshops were held between local government officials, Metro Councilors and Metro's Executive Officer in an attempt to initiate a regional cooperative working effort. The most significant of these meetings was, held on June 4, 1988, between the Metro Council and the Solid Waste Policy Committee (comprised of local

RESOLUTION NO. 91-1437B
Minority Report
Page 2

government officials, Metro's Executive Officer, DEQ and the Port of Portland). The discussions held at this meeting provided the framework for the solid waste planning policies which were adopted unanimously by the Metro Council in October 1988 and incorporated into the Regional Solid Waste Management Plan (RSWMP). The agreements reached at that meeting are now policies for Metro as an agency that remain valid until they are changed through official Council action.

The region has leaped forward in effective waste reduction since the initiation of working cooperatively with local governments. Every local government in the region now has in place their own waste reduction plan which identifies their tasks, timelines and budget for carrying out portions of the Regional Waste Reduction Program. This is a major turn-about from 1986-87 when Metro threatened local governments with penalties if they did not do waste reduction.

Metro's and the region's record of success in solid waste management is to be commended over the past four years. As we move towards putting in place the last major part of our system, we need to remember how that success was attained. It was through time consuming negotiations with local governments in a cooperative decision making process.

The Washington County leadership has been at the table working with Metro since the initiation of the cooperative decision making process for solid waste. They have diligently followed and carried out Metro's plans and policies for the past four years. They were the first to bring forward a yard debris plan in response to the EQC's yard debris rules and they have been more active in working with Metro to provide appropriate zoning for solid waste facilities than jurisdictions in other parts of the region. Washington County and the Cities of Beaverton and Sherwood have voluntarily dedicated staff time and resources to this task for the next fiscal year. The City of Forest Grove already meets the intent of the model ordinance by listing solid waste facilities as permitted uses. The City also plans to review their specific development review standards to ensure that they are clear and objective.

Metro's model ordinance for providing appropriate zoning for solid waste facilities in the region has not been formally adopted by the full Council yet. The model ordinance was first presented to the Council Solid Waste Committee on April 2nd of this year. It was later recommended for adoption by the Committee on May 7th. Final action by the full Council is expected in June. Given the fact that the Model Ordinance has not been adopted by the Council, it is not possible to hold local governments responsible for amending their local ordinances to provide appropriate zoning for solid waste facilities.

Washington County has also brought Metro a comprehensive transfer/material recovery system plan supported by a thorough technical analysis. Their plan has been reviewed by Metro staff and a team of consultants. It has been found to be consistent with the RSWMP.

Policy Issues:

The Washington County plan was developed in accordance with:

- Ordinance No. 88-266B (RSWMP)
- Resolution No. 89-1156 (Minimum Standards and Process for Washington County Local Government Solution)
- Resolution No. 90-1263 (Receipt of Washington County Concept Plan)
- Resolution No. 90-1250A (Initiating Analysis of Washington County Plan)
- Resolution No. 90-1358B (Establishing Policy Preference for the Local Government Solution)

Washington County followed Metro policy in every aspect of their proposed plan.

- In contrast, the Resolution approved by the CSWC on May 21, 1991, (Resolution No. 91-1437A) is not consistent with adopted Metro policy.

Specifically, Resolution No. 91-1437A is not consistent with the following:

Ordinance No. 88-266B (RSWMP). Policy 16.0 (Local Government Solutions Policy) states, "The implementation of the solid waste management plan shall give priority to solutions developed at the local level that are consistent with all plan policies." The Washington County plan is consistent with all RSWMP policies, therefore, it would be counter to Metro policy to not accept the Washington County local government solution as it has been presented.

- Resolution 90-1437A is not consistent with Ordinance 88-266B or Policy 16.0 because it is not based on the findings of the technical analysis and does not support the recommendations of the local government solution related to facility ownership, facility financing or facility procurement.

- **Resolution 91-1437B is consistent with Ordinance 88-266B and Policy 16.0 because it acknowledges that the Washington County local government solution is consistent with all RSWMP policies, as was determined by the technical analysis.**

Resolution No. 90-1358B. Again, this Resolution states the Council's intent to accept and give priority to Washington County's solid waste system plan provided it is found to be consistent with the RSWMP policies. The CSWC's approval of Resolution No. 91-1437A is a major deviation from the Washington County plan and, therefore, represents an action counter to established Metro policy.

- **The major deviation from the Washington County plan and the policy established by 90-1358B contained in Resolution 1437A is that it contains a requirement for a public turn-key ownership option for one of the two transfer facilities; and, procurement of the facility would be through an RFP process.**
- **Resolution 1437B is consistent with Resolution 90-1358B because it relies on the findings of the technical analysis which conclude that the Washington County Plan is consistent with all RSWMP policies. Accordingly, the policy direction contained in 90-1437B does not deviate from the Washington County plan.**

Resolution No. 90-1250A. This Resolution states "...the Council authorizes the private vs. public ownership analysis on the Washington County system components to be conducted during the planning phase and states its intention to make a decision on this issue prior to commencement of the procurement phase."

- **Resolution No. 91-1437A is in direct conflict with this adopted position of the Metro Council. Resolution No. 91-1437A states that the decision of ownership is to be determined through the procurement process. Further, Metro Council adoption of this position would result in placing a basic policy question of public vs. private ownership in the hands of those who have a vested interest in the outcome. The private sector.**

For some companies and some sites there may be a strong vested interest in public ownership. This might, for example, be the case if the site proposed entails considerable environmental risk, or if there are potential unforeseeable future mitigation

costs that a private proposer seeks to avoid. Other companies and other sites may have a vested interest in private ownership if risk appears low, and competitive factors appear beneficial. But the point is that Resolution No. 91-1437A will give us no process for ensuring that the public interest is properly weighed. All we would have to choose from is a variety of proposals each reflecting the differing vested interests in ownership. The basic public interest in this question is avoided.

Staff and the consultant team conducted a thorough analysis on the issue of ownership. The recommendation from the Washington County plan is consistent with that analysis. In keeping with adopted Metro policy, the Metro Council is obligated to make a decision on ownership through consideration of this Resolution -- not through a procurement process. That decision must be made in accordance with criteria contained in the RSWMP. However, the RSWMP does not state when it is to be made. This Council decided when to make the ownership decision when it adopted Resolution 90-1250A.

- Resolution 90-1437B is consistent with Resolution 90-1250A because it makes the decision on facility ownership in Washington County prior to procurement. It also decides the method of facility financing and competitive procurement in support of that decision.

Both Resolution 91-1437 A and B do not conflict with Resolution 89-1156 or Resolution 90-1263.

Technical Issues:

Ownership. The technical analysis concluded, after assessment of all the RSWMP ownership criteria, that the primary issues of importance are cost and the adherence to the "local government solution" policy in the RSWMP. It was determined that all the other criteria could effectively be managed or mitigated through appropriate regulatory controls. The CSWC concluded in their discussions that they agreed with the technical work done by Public Financial Management (PFM) which stated that the cost differential between public and private ownership does not have a significant impact on the total overall budget and rate structure for Metro. Further, PFM concluded that the cost of development and operation makes little difference. The technical analysis found that all other ownership criteria could effectively be

managed or mitigated under either a public or private ownership situation through appropriate regulatory controls.

- Therefore, based on the technical analysis, the decision on ownership should adhere to the local government solution -- private ownership.

The CSWC's approval of Resolution No. 91-1437A is inconsistent with the technical analysis.

- There is no technical justification for delaying the decision of ownership on the larger transfer station in Washington County.

Further, there is no rationale for allowing the smaller transfer station (an \$8.5 million retrofit) to be privately owned while the larger transfer station is not.

A concern about ownership related to the private sector being able to respond to the region's needs for facility changes over time has been raised.

- Metro's franchise code (Section 5.01.085) provides Metro with the necessary authority to write a franchise agreement with the private sector which explicitly states Metro's control and ability to cause necessary changes to facility capital improvements, methods of operation or other factors.

Procurement. The technical analysis concludes that the type of procurement process used for Washington County transfer stations is dependent on the ownership decision. As mentioned above, the analysis concurs with the Washington County recommendation of private ownership. Therefore, the technical analysis concludes that a private sector competitive franchise process should be used.

Resolution No. 91-1437A recommends two different types of procurement processes. A competitive long-term franchise process for the small transfer station and a RFP with a public turn-key ownership option for the larger transfer station. This recommendation is not based on the technical analysis and would result in a cumbersome and unfair procurement process for the following reasons.

Competition:

- A public turn-key operation will limit competition.

Requiring the large transfer station to go through a procurement process which requests a public turn-key option will limit competition. The small family-owned business that wants to compete to operate the large transfer station will be eliminated from participation. This is because they are not in the business of doing "turn-key" projects. They would be required to submit for both the private and turn-key alternatives. They have indicated they would not submit if both are required.

- The turn-key requirement will mean that only large national waste management firms will participate in the procurement process.

If a large national waste management firm does submit the most favorable proposal for either option, the Council will likely be faced with the concern of increasing the potential for monopolizing the region's major solid waste facilities.

Cost Savings:

- A turn-key arrangement in Washington County may not be the most cost-effective ownership alternative in the long-term for Metro or regional rate payers.

Metro has learned from the Metro Central turn-key arrangement that Metro is at risk in a three to five year operations agreement with the firm responsible for building the facility. Specifically, a firm can increase their profit by taking shortcuts on materials, equipment and quality of workmanship, thus obligating Metro to pay substantial additional costs later in replacement costs. Resolution No. 91-1437A is inconsistent with operational lessons that Metro has learned through prior experience.

There is evidently some belief that the procurement process outlined in Resolution No. 91-1437A is the same as that used for the Metro Central facility. This is not really the case. We did not require that the same capital costs be used for both public and private options. This will certainly result in inflated capital costs for those proposers wishing us to award private ownership, and inflated operating costs for any proposals that are seeking public ownership.

- The procurement process for each of the service areas should be the same.

The technical analysis indicates that there is not a substantial cost savings to retrofit an existing facility over building a new one. The staff work necessary to conduct two different procurement processes will be almost double. This would appear to be an unnecessary additional cost that could be saved if the Council would make a policy decision on ownership prior to procurement.

CONCLUSION

The Resolution (Resolution No. 91-1437A), approved by the CSWC on May 21, 1991, is not consistent with the spirit and intent of the cooperative decision making process Metro established with local governments almost four years ago. More alarming, however, is the fact that Resolution No. 91-1437A is also inconsistent with both the Metro Council's adopted policies and an extensive technical analysis conducted by staff and a team of consultants.

Washington County and the cities within the County have worked hard for almost two years to bring Metro a solid waste system that will work for them and meets Metro's policies. They delivered, they followed the rules -- all of Metro's rules. A decision contrary to Metro's adopted policies, which set in place the direction that Washington County followed in bringing us a plan at this time, would be a significant step backward for this regional government.

Therefore, Resolution No. 91-1437B is proposed to replace Resolution No. 91-1437A. Resolution No. 91-1437B establishes a policy framework for developing a Washington County Solid Waste System chapter to the Regional Solid Waste Management Plan consistent with the Washington County proposed plan.

June 13, 1991

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING)	RESOLUTION NO. 91-14370A B
POLICY FOR DEVELOPMENT OF THE)	
WASHINGTON COUNTY SOLID WASTE)	
SYSTEM CHAPTER TO THE REGIONAL)	INTRODUCED BY:
SOLID WASTE MANAGEMENT PLAN)	Councilor, Tom DeJardin

WHEREAS, Ordinance No. 88-266B adopted the Regional Solid Waste Management Plan in October, 1988; and

WHEREAS, the Regional Solid Waste Management Plan, Policy 16.0, gives priority to local government solid waste management solutions; and

WHEREAS, Resolution No. 89-1156 identifying a process, timeline and minimum standards for development of the Washington County Solid Waste System as a local government solution, was adopted in October, 1989; and,

WHEREAS, Washington County and the cities therein developed a local government solution in accordance with Resolution No. 89-1156 for Metro Council consideration; and

WHEREAS, Resolution 90-1358B recognizing and giving priority to Washington County's local government solution provided it is determined to be consistent with all Regional Solid Waste Management Plan provisions, was adopted in December, 1990; and

WHEREAS, Chapter 13 of the Regional Solid Waste Management Plan establishes criteria for determining the form of facility ownership that best serves the public interest, including that

facilities must be able to adjust to changing circumstances which may require capital improvements, new methods of operation or similar factors; and

WHEREAS, a policy and technical analysis of options for a Washington County solid waste system has been completed; and

WHEREAS, a need for establishing policy based on the policy and technical analysis exist to write the Washington County Solid Waste System chapter to the Regional Solid Waste Management Plan; now, therefore,

BE IT RESOLVED:

1. That the Council of the Metropolitan Service District recognizes and gives priority to the Washington County Solid Waste Plan (local government solution) by establishing the following policies to ensure that the Washington County Plan is consistent with the Regional Solid Waste Management Plan:

a) System Configuration / Tonnage Projections

The west waste shed planning area and corresponding waste tonnage projections should be based on the Washington County boundary delineation with minor adjustments to account for established hauler activities; facility site proposals located in or around Wilsonville should include some Clackamas County waste tonnages; and the regional system should allow for flexibility by initially constructing Washington County facilities based on 10-year tonnage projections (2003).

b) **Number of Transfer / Material Recovery Facilities**

Two transfer/material recovery facilities. Both to be on-line by 1993. The larger facility serving the eastern portion of Washington County and southwestern Clackamas County would have a capacity of approximately 196,000 tons and the smaller facility serving western Washington County would have a capacity of approximately 120,000 tons.

c) **Post-Collection Material Recovery**

Develop material recovery requirements for transfer/material recovery facilities in Washington County through a combination of economic incentives, market factors, facility design requirements and impacts on local programs and facilities to be negotiated by Metro and vendors through the procurement process. Expected recovery at the transfer station is an estimated average of 16%.

d) **High Grade Processing**

A high grade facility should be procured as a component of the Washington County solid waste system. The decision as to whether or not the high-grade function should take place at a separate facility or at a transfer station should be made during the procurement process.

e) Financing

Public/private financing; with option for Metro to sponsor Revenue Bonds with a limited Metro pledge.

~~Financing to be determined through procurement, with Metro limited pledge private activity bonds available for private ownership and Metro system revenue bonds utilized for public ownership.~~

f) Rates

The proposed Washington County local government solution should not obligate the citizens of Washington County to pay more for solid waste disposal than citizens in other parts of the region. The increased cost of the local government solution should be incorporated into the regional rate structure. ~~as long as private financing costs do not exceed financing costs for an identically priced facility financed through Metro limited pledge private activity bonds, and the only increase in operating costs is due to the payment of local property taxes.~~

g) Facility Ownership

Private ownership and operation with public assistance for bond allocation. ~~Either public or private ownership, determined through the procurement process, based on the Metro Council's review of the proposals using the criteria established for facility ownership~~

~~in the Solid Waste Management Plan.~~

The transfer facilities shall be classified as major disposal system components and franchised as such in accordance with Section 5.01.085 of the Metro Code. A specific term and condition of the franchise shall be that the facility operator(s) shall adjust to changing circumstances which may require capital improvements, new methods of operation or similar factors in order to ensure continued compliance with the RSWMP as it may be amended.

h) Vertical Integration

Allow vertical integration with the requirement that Metro operate transfer station gatehouse(s).

i) Procurement

Smaller Facility:

Competitive long-term franchise process with the option to circulate an RFP, if the private sector is unable to obtain facility financing and meet other criteria established for the franchise. ~~with proposers required to state capital and long-term operating costs.~~

Larger Facility:

Competitive request for proposals process, with proposers required to submit proposals for both private ownership (20 year franchise) and public ownership (turnkey with 3 - 5 year operation agreement).

~~Procurement will require proposals to state single capital cost, with alternative proposals for 20 year operation agreement (long term) and 3 -- 5 year operation agreement (short term); and to specify financing method for private ownership if non-Metro assisted financing is proposed.~~

j) Land Use Siting

Facility vendors must have the land use permit in hand prior to the procurement process. This does not include site design review or the mitigation agreement that are subject to the procurement process.

k) Flow Control

Allocate waste destined for transfer/material recovery facilities or a general purpose landfill to a transfer/material recovery facility within a designated service area.

These policies are identified as the preferred policy options in the April, 1991 Policy and Technical Analysis for the Washington County System Plan. These policies represent the conclusion of the analysis conducted on various solid waste system options for Washington County.

- 2) That Metro staff shall use the above stated policies to develop the Washington County Chapter to the Regional Solid Waste Management Plan.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1991.

Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING) RESOLUTION NO. 91-1437A
POLICY FOR DEVELOPMENT OF THE)
WASHINGTON COUNTY SOLID WASTE)
SYSTEM CHAPTER TO THE REGIONAL) INTRODUCED BY:
SOLID WASTE MANAGEMENT PLAN) RENA CUSMA, EXECUTIVE OFFICER

WHEREAS, Ordinance No. 88-266B adopted the Regional Solid Waste Management Plan in October, 1988; and

WHEREAS, the Regional Solid Waste Management Plan, Policy 16.0, gives priority to local government solid waste management solutions; and

WHEREAS, Resolution No. 89-1156 identifying a process, timeline and minimum standards for development of the Washington County Solid Waste System as a local government solution, was adopted in October, 1989; and,

WHEREAS, Washington County and the cities therein developed a local government solution in accordance with Resolution No. 89-1156 for Metro Council consideration; and

WHEREAS, Resolution 90-1358B recognizing and giving priority to Washington County's local government solution provided it is determined to be consistent with all Regional Solid Waste Management Plan provisions, was adopted in December, 1990; and

WHEREAS, a policy and technical analysis of options for a Washington County solid waste system has been completed; and

WHEREAS, a need for establishing policy based on the policy

and technical analysis exist to write the Washington County Solid Waste System chapter to the Regional Solid Waste Management Plan; now, therefore,

BE IT RESOLVED:

1. That the Council of the Metropolitan Service District recognizes and gives priority to the Washington County Solid Waste Plan (local government solution) by establishing the following policies to ensure that the Washington County Plan is consistent with the Regional Solid Waste Management Plan:

a) System Configuration / Tonnage Projections

The west waste shed planning area and corresponding waste tonnage projections should be based on the Washington County boundary delineation with minor adjustments to account for established hauler activities; facility site proposals located in or around Wilsonville should include some Clackamas County waste tonnages; and the regional system should allow for flexibility by initially constructing Washington County facilities based on 10-year tonnage projections (2003).

b) Number of Transfer / Material Recovery Facilities

Two transfer/material recovery facilities. Both to be on-line by 1993. The larger facility serving the eastern portion of Washington County and southwestern Clackamas County would have a capacity of approximately 196,000 tons and the smaller facility serving western

Washington County would have a capacity of approximately 120,000 tons.

c) Post-Collection Material Recovery

Develop material recovery requirements for transfer/material recovery facilities in Washington County through a combination of economic incentives, market factors, facility design requirements and impacts on local programs and facilities to be negotiated by Metro and vendors through the procurement process. Expected recovery at the transfer station is an estimated average of 16%.

d) High Grade Processing

A high grade facility should be procured as a component of the Washington County solid waste system. The decision as to whether or not the high-grade function should take place at a separate facility or at a transfer station should be made during the procurement process.

e) Financing

~~[Public/private financing with limited Metro pledge; option for Metro to sponsor Revenue Bonds.]~~ Financing to be determined through procurement, with Metro limited pledge private activity bonds available for private ownership and Metro system revenue bonds utilized for public ownership.

f) Rates

The proposed Washington County local government solution should not obligate the citizens of Washington County to pay more for solid waste disposal than citizens in other parts of the region. The increased cost of the local government solution should be incorporated into the regional rate structure, as long as private financing costs do not exceed financing costs for an identically priced facility financed through Metro limited pledge private activity bonds, and the only increase in operating costs is due to the payment of local property taxes.

g) Facility Ownership

~~[Private ownership and operation with public assistance for bond allocation.]~~ Either public or private ownership, determined through the procurement process, based on the Metro Council's review of the proposals using the criteria established for facility ownership in the Solid Waste Management Plan.

h) Vertical Integration

Allow vertical integration with the requirement that Metro operate transfer station gatehouse(s).

i) Procurement

Smaller Facility:

Competitive long-term franchise process ~~[with the option to circulate an RFP, if the private sector is~~

~~unable to obtain facility financing and meet other criteria established for the franchise.] , with~~
proposers required to state capital and long-term operating costs.

Larger Facility:

Competitive request for proposals process, with proposers required to submit proposals for both private ownership (20 year franchise) and public ownership (turnkey with 3 - 5 year operation agreement).

Procurement will require proposals to state single capital cost, with alternative proposals for 20 year operation agreement (long-term) and 3 - 5 year operation agreement (short-term); and to specify financing method for private ownership if non-Metro assisted financing is proposed.

j) Land Use Siting

Facility vendors must have the land use permit in hand prior to the procurement process. This does not include site design review or the mitigation agreement that are subject to the procurement process.

k) Flow Control

Allocate waste destined for transfer/material recovery facilities or a general purpose landfill to a transfer/material recovery facility within a designated service area.

~~[These policies are identified as the preferred policy options in the April, 1991 Policy and Technical Analysis for the Washington County System Plan. These policies represent the conclusion of the analysis conducted on various solid waste system options for Washington County.]~~

- 2) That Metro staff shall use the above stated policies to develop the Washington County Chapter to the Regional Solid Waste Management Plan.

ADOPTED by the Council of the Metropolitan Service District this _____ day of _____, 1991.

Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council

SOLID WASTE COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 91-1437A, FOR THE PURPOSE OF ESTABLISHING POLICY FOR DEVELOPMENT OF THE WASHINGTON COUNTY SOLID WASTE SYSTEM CHAPTER TO THE REGIONAL SOLID WASTE MANAGEMENT PLAN

Date: June 5, 1991

Presented by: Councilor Gardner

Committee Recommendation: At the May 21, 1991 meeting, Committee members voted 3-1 to recommend Council adoption of Resolution No. 91-1437 as amended. Voting in favor were Councilors Gardner, McFarland and Wyers. Councilor DeJardin was opposed, and notified the Committee of his intention to file a minority report. Councilor McLain could not be present for the vote, but indicated on the record her intention to vote against the amended Resolution.

Committee Issues/Discussion: The Resolution was first considered by the Committee at the April 16, 1991 meeting. Rich Carson, Planning and Development Director, presented the Resolution, which establishes eleven policies recommended as preferred policy options in the Policy and Technical Analysis of the Washington County Plan. These policies would be used to develop the Washington County Chapter of the Regional Solid Waste Management Plan.

The policies include:

- o basing facility construction for the west waste shed on tonnage projections through the year 2003 (a ten year planning horizon) for an area mainly within Washington County.
- o bringing two transfer/material recovery facilities on line by 1993: a larger facility (196,000 ton capacity) serving the eastern portion of Washington County and southwestern Clackamas County, and a smaller facility (120,000 ton capacity) serving western Washington County.
- o negotiating material recovery requirements as part of the procurement process; developing these requirements through a combination of economic incentives, market factors, facility design requirements and impacts on local programs and facilities.
- o procuring a high grade facility, with the decision as to whether this function should take place at a separate facility to be made during procurement.

SOLID WASTE COMMITTEE REPORT
RESOLUTION NO. 1437A
Page Two

- o financing the transfer stations through limited Metro pledge private activity bonds, with an option for Metro to sponsor revenue bonds.
- o incorporating the increased cost of the solution into the regional rate structure, rather than requiring the citizens of Washington County to pay the increased costs.
- o providing for private ownership and operation of both transfer stations.
- o requiring Metro to operate the transfer station gatehouses, but otherwise allowing vertical integration.
- o procuring the facilities through a competitive long-term franchise, with an option to issue an RFP if the private sector cannot obtain financing and meet other criteria.
- o requiring vendors to have a land use permit prior to procurement.
- o allocating waste to facilities within designated service areas.

The Committee heard testimony from Washington County Steering Committee representatives in support of the Resolution. The Committee also heard testimony from representatives of the Garden Acre Neighborhood Association who oppose siting a transfer station on the Wilsonville site owned by United Disposal. Committee members raised questions about property tax implications and about whether the Resolution provided a competitive procurement process.

The Committee again considered the Resolution at the May 7, 1991 meeting. Rich Carson, Planning and Development Director, and Bob Martin, Solid Waste Director, responded to questions raised by Councilor Gardner in a memorandum to Councilor Wyers dated May 3, 1991, regarding the need for both transfer stations at this time.

At the May 21, 1991 meeting, Councilor Gardner introduced amendments to the Resolution. The Committee received testimony from the Clackamas County Refuse Disposal Association in support of private ownership, and testimony from Washington County Steering Committee representatives and the Tri-County Haulers in opposition to the proposed amendment.

SOLID WASTE COMMITTEE REPORT
RESOLUTION NO. 1437A
Page Three

The amended Resolution provides for procurement of the larger transfer station through a competitive request for proposals. Metro not only would seek proposals for private ownership under a twenty year franchise as provided in the original Resolution, but would also request proposals for public ownership with a 3-5 year private operating agreement. Both the amended and the original version provide for procurement of the smaller transfer station through a competitive long-term franchise process.

The amended Resolution further provides that the Council will make the final decision about ownership after comparing the proposals for private and public ownership, using the criteria in the Regional Solid Waste Management Plan. If the Council accepted a proposal for private ownership, Metro limited pledge bonds would be available for financing. If the Council accepted a proposal for public ownership, revenue bonds would be available.

Testimony, staff presentations, and committee discussion at the three committee meetings centered around several issues: whether the original Resolution is consistent with the Regional Solid Waste Management Plan; whether the ownership decision should be made based on Washington County's recommendation for private ownership, or after the Council has the opportunity to compare proposals for private ownership and long-term private operation with proposals for public ownership and private operation; and the consequences of amending the original Resolution in any way.

Summary of arguments presented in favor of amending the Resolution

- o The amendment allows the Council to compare public and private ownership options. This is the only substantive change to the original Resolution. The majority of Washington County's recommendations are adopted, including the number of transfer stations and their locations. The amended Resolution accepts the recommendation for private ownership for the smaller facility. Although some Councilors remain concerned about the added cost of two transfer stations when only one mid-sized station may be needed to handle the tonnage, the amendment defers to the Washington County recommendation, since it is appropriate under the Regional Plan to give priority to local solutions for siting and related issues.

- o In contrast, under the Regional Plan decisions about facility ownership, financing and procurement are to be made by Metro, in its capacity as manager of the regional solid waste system. The original Resolution goes beyond siting issues, and effectively delegates to the Washington County Steering Committee the decision on ownership of the larger transfer station. It is fundamentally inconsistent with Metro's statutory responsibilities and the Regional Plan for Metro to obligate itself to defer to local government recommendations on broad regional system management issues. The ultimate decision about whether all aspects of a local solution are consistent with the Regional Plan is clearly the Council's to make. This was the agreement with local government reached by consensus at the June, 1988 meeting at which the local option policy originated.

- o The Regional Plan states that ownership decisions will be made on a case-by-case basis, using criteria established in Chapter 13 (see attachment). The best way to obtain information about the options and to evaluate them against the criteria is to ask for proposals for both private and public ownership of the larger transfer station, and compare the proposals. This does not eliminate the private ownership option, although it does not automatically endorse it as does the original resolution.

- o It is important to give full consideration to the public ownership option, because it is the only option which allows for competition. Competition for facility siting is constrained by Washington County zoning codes which contain subjective standards which can be used to prohibit facilities. The only way to retain some competition is to allow for the possibility of continuing competition for private sector operation of the transfer station. A long-term franchise means that one vendor would operate the station for at least 20 years. With public ownership, the operation contract would be rebid after 3-5 years, allowing competition. If the operating contract was rebid at the same time as other operating contracts, economies of scale could result in additional cost savings.

- o With the composter and Metro Central in place, the system is not in crisis. Metro should take the time required to pursue a competitive process to compare ownership alternatives.

- o The Forest Grove transfer station expansion is underway, with the owner actively seeking financing at this time. This 120,000 ton per year facility can serve a large portion of Washington County. Recent action by the Wilsonville Planning Commission indicates there is no guaranteed siting for new transfer stations, regardless of ownership or the "local solution" promise. Other potential vendors for the larger transfer station may not have come forward yet because of a perception that a single vendor has been pre-selected under the Washington County recommendation. A clear statement that Metro will pursue a truly competitive procurement process is likely to stimulate interest among other vendors.

Summary of arguments presented in support of the original Resolution

- o The Resolution as originally drafted is consistent with the Regional Plan, because there is nothing in the Regional Plan which contradicts any of the proposed policies. Since the Regional Plan states that preference will be given to a local solution which is consistent with the Plan, the local plan must be approved unless there is a contradiction. Amendments which change the proposal are contrary to Metro's stated policy of giving preference to local solutions.
- o The Steering Committee worked for many months with Metro staff to develop a comprehensive proposal. The Policy and Technical Analysis prepared under the direction of Metro staff supports the Steering Committee proposal. Based on this work, sufficient information is available to the Council to make the decision now in favor of private ownership of the larger transfer station, without first undertaking a procurement process.
- o Giving full consideration to the public ownership option may mean that no vendor will respond, based on testimony from United Disposal. If this happens, Metro would wind up with nothing, and the process will have to begin again. Over the past years Metro has not been able to site a solid waste facility in Washington County. Given the time spent on this issue, the need to manage solid waste in Washington County, and the need to preserve good working relationships with local jurisdictions, it is preferable to accept a proposal which would result in sited facilities rather than to continue the process toward an uncertain outcome.

CHAPTER 13 - FACILITY OWNERSHIP

POLICIES

- 13.0 Solid waste facilities may be publicly or privately owned, depending upon which best serves the public interest. A decision on ownership of a facility shall be made by Metro, case-by-case, and based upon established criteria.
- 13.1 Recycling drop centers shall be privately owned unless a need for such additional facilities is identified and can best be fulfilled by a city or county as determined by that city or county.
- 13.2 Facilities which serve only one collector and exclude the public shall be privately owned.

* * * * *

The criteria to be used for determining what form of facility ownership best serves the public interest are:

- a. to compare the anticipated capital and operating costs;
- b. to adhere to the waste reduction policies;
- c. to best achieve implementation of the solid waste management plan;
- d. to be compatible with existing facilities and programs;
- e. to adjust to changing circumstances which may require capital improvements, new methods of operation or similar factors;
- f. to be environmentally acceptable;
- g. to provide ease of access by the public and collection industry, where applicable;
- h. to avoid vertical integration (monopoly) of the solid waste business;
- i. to demonstrate ease of facility management, including fee collection equity, periodic review, rate changes, flow control and related operational changes;
- j. to provide appropriate mitigation and/or enhancement measures deemed appropriate to the host jurisdiction.

The nature and scale of the subject facility shall be considered in determining how to apply the criteria.

STAFF REPORT

**CONSIDERATION OF RESOLUTION NO. 91-1437 FOR THE
PURPOSE OF ESTABLISHING POLICY FOR DEVELOPMENT
OF THE WASHINGTON COUNTY SOLID WASTE SYSTEM
CHAPTER TO THE REGIONAL SOLID WASTE
MANAGEMENT PLAN**

DATE: April 5, 1991

Presented by: Richard Carson
Becky Crockett

PROPOSED ACTION

Resolution No. 91-1437 establishes policy recognizing and giving priority to the Washington County Solid Waste Plan (local government solution).

FACTUAL BACKGROUND AND ANALYSIS

Resolution No. 91-1437 contains policy conclusions as a result of an extensive technical and policy analysis conducted on various options for establishing solid waste facilities in Washington County. The April, 1991 Policy and Technical Analysis for the Washington County System Plan contains the factual background and analysis which provides the basis for this Resolution.

RECOMMENDATION

The Executive Officer recommends approval of Resolution No. 91-1437 which establishes policy recognizing and giving priority to the Washington County solid waste plan and initiating development of the Washington County solid waste system Chapter to the Regional Solid Waste Management Plan (RSWMP).

BEFORE THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

FOR THE PURPOSE OF ESTABLISHING)	RESOLUTION NO. 91-1437
POLICY FOR DEVELOPMENT OF THE)	
WASHINGTON COUNTY SOLID WASTE)	
SYSTEM CHAPTER TO THE REGIONAL)	Introduced by:
SOLID WASTE MANAGEMENT PLAN)	Rena Cusma, Executive Officer

WHEREAS, Ordinance No. 88-266B adopted the Regional Solid Waste Management Plan in October, 1988; and

WHEREAS, the Regional Solid Waste Management Plan, Policy 16.0, gives priority to local government solid waste management solutions; and

WHEREAS, Resolution No. 89-1156 identifying a process, timeline and minimum standards for development of the Washington County Solid Waste System as a local government solution, was adopted in October, 1989; and,

WHEREAS, Washington County and the cities therein developed a local government solution in accordance with Resolution No. 89-1156 for Metro Council consideration; and

WHEREAS, Resolution 90-1358B recognizing and giving priority to Washington County's local government solution provided it is determined to be consistent with all Regional Solid Waste Management Plan provisions, was adopted in December, 1990; and

WHEREAS, a policy and technical analysis of options for a Washington County solid waste system has been completed; and

WHEREAS, a need for establishing policy based on the policy and technical analysis exist to write the Washington County Solid Waste System chapter to the Regional Solid Waste Management Plan; now, therefore,

BE IT RESOLVED:

1. That the Council of the Metropolitan Service District recognizes and gives priority to the Washington County Solid Waste Plan (local government solution) by establishing the following policies:

a) **System Configuration/Tonnage Projections**

The west waste shed planning area and corresponding waste tonnage projections should be based on the Washington County boundary delineation with minor adjustments to account for established hauler activities; facility site proposals located in or around Wilsonville should include some Clackamas County waste tonnages; and the regional system should allow for flexibility by initially constructing Washington County facilities based on 10-year tonnage projections (2003).

b) **Number of Transfer/Material Recovery Facilities**

Two transfer/material recovery facilities. Both to be on-line by 1993. The larger facility serving the eastern portion of Washington County and southwestern Clackamas County would have a capacity of approximately 196,000 tons and the smaller facility serving western Washington County would have a capacity of approximately 120,000 tons.

c) **Post-Collection Material Recovery**

Develop material recovery requirements for transfer/material recovery

h) **Vertical Integration**

Allow vertical integration with the requirement that Metro operate transfer station gatehouse(s).

i) **Procurement**

Competitive long-term franchise process with the option to circulate an RFP, if the private sector is unable to obtain facility financing and meet other criteria established for the franchise.

j) **Land Use Siting**

Facility vendors must have the land use permit in hand prior to the procurement process. This does not include site design review or the mitigation agreement that are subject to the procurement process.

k) **Flow Control**

Allocate waste destined for transfer/material recovery facilities or a general purpose landfill to a transfer/material

These policies are identified as the preferred policy options in the April, 1991 Policy and Technical Analysis for the Washington County System Plan. These policies represent the conclusion of the analysis conducted on various solid waste system options for Washington County.

facilities in Washington County through a combination of economic incentives, market factors, facility design requirements and impacts on local programs and facilities to be negotiated by Metro and vendors through the procurement process. Expected recovery at the transfer station is an estimated average of 16%.

d) **High Grade Processing**

A high grade facility should be procured as a component of the Washington County solid waste system. The decision as to whether or not the high-grade function should take place at a separate facility or at a transfer station should be made during the procurement process.

e) **Financing**

Public/private financing with limited Metro pledge; option for Metro to sponsor Revenue Bonds.

f) **Rates**

The proposed Washington County local government solution should not obligate the citizens of Washington County to pay more for solid waste disposal than citizens in other parts of the region. The increased cost of the local government solution should be incorporated into the regional rate structure.

g) **Facility Ownership**

Private ownership and operation with public assistance for bond allocation.

- 2) That Metro staff shall use the above stated policies to develop the Washington County Chapter to the Regional Solid Waste Management Plan.

ADOPTED by the Council of the Metropolitan Service District this ____ day of _____, 1991.

Tanya Collier, Presiding Officer

ATTEST:

Clerk of the Council

Amendment introduced by councilor McFarland
at 6/13/91 council meeting (passed)

Proposed Amendment to Resolution No. 91-1437 B

SECTION 1 i. Competitive long-term franchise process with the option to circulate RFP, if the private sector is unable to obtain facility financing and meet other criteria for the franchise. These criteria shall include a cost which is no greater than the cost of a publicly financed facility using the assumptions and methodology in the technical analysis.