

MINUTES OF THE COUNCIL OF THE
METROPOLITAN SERVICE DISTRICT

June 30, 1987
Special Meeting

Councilors Present: Mike Bonner, Tanya Collier, Tom DeJardin,
Jim Gardner, Gary Hansen, Sharron Kelley,
Corky Kirkpatrick, David Knowles, Mike
Ragsdale, George Van Bergen and Richard
Waker

Councilors Absent: Larry Cooper

Also Present: Rena Cusma, Executive Officer

Staff Present: Dick Engstrom, Vickie Rocker, Don Carlson,
Ray Barker, Bob Applegate, Debbie Allmeyer,
Tor Lyshaug, Dave Luneke, Dennis Mulvihill,
Richard McConaghy, Steve Rapp, Jon Allred,
Becky Crockett

Presiding Officer Waker called the special meeting to order at 5:40 p.m. He explained that Resolution No. 87-780 would be the only item on the agenda and that the Council had conducted a public hearing on resource recovery project issues at their meeting of June 25, 1987.

1. Consideration of Resolution No. 87-780, for the Purpose of Authorizing Entry into Memorandum of Understanding Negotiations with System Contractors of Mass Composting and Mass Incineration Systems

Debbie Allmeyer, Resource Recovery Project Coordinator, summarized staff's recommendation: that staff be authorized to enter into preliminary negotiations, or Memorandum of Understanding negotiations, with the firms of 1) Riedel Environmental Technologies for a composting facility and transfer station; 2) Schnitzer/Ogden for mass incineration technology; and 3) Fluor/SEI for mass incineration technology. The composting facility's proposed location was at N.E. Columbia Boulevard in Portland and a St. Helens' site was recommended for mass incineration technology.

Presiding Officer Waker noted he had received a letter from the Port of Portland, signed by Lloyd Anderson, indicated the Port supported the recommendations made by the Resource Recovery Review Committee and the Executive Officer.

He read an unsigned letter from the Tri-County Council, submitted by Executive Director Maureen Ernst, OSSI:

"The Tri-County Council has gone on record in support for continued negotiations with the Alternative Technology proposals. We encourage the Metro Council and staff to study

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all the proposals and render no decisions until the landfill/-disposal sites have been secured."

A letter from Councilor Larry Cooper read:

"Since I will be unable to attend the June 30 Special Meeting due to previous commitments, I would like to put several comments in writing to you. Personally, I feel we are committed to a balanced system, i.e., landfill, burner and composting. The composting is fairly simple since we had one responsive bidder.

Landfill siting by Metro is going to be a long, arduous process. We have several proposals including Arlington and Boardman plus others that may offer a temporary solution to Metro. I would dismiss the one from Art Raz as I believe his presentation and following correspondence were less than professional.

In the matter of the burners, since I would hate to spend the negotiating budget money, I think we should look into the Combustion Engineering as well as the other two vendors. There is plenty of opportunity to negotiate for better tipping fees and for a better equity position and the project would impact the costs.

I also understand from last nights' meeting that the question of flow control has again come up. I feel comfortable with it but for everyone's peace of mind, we should get a firm opinion that we do have that right."

A letter was received from Wastech and written copies were distributed to all Councilors. The letter expressed concerns about designating the site proposed by Riedel for the regional transfer station.

Main Motion: Councilor Knowles moved, seconded by Councilor Hansen, to adopt Resolution No. 87-780.

Councilor Knowles then discussed two amendments to the Resolution he wished to propose. The first amendment would add Combustion Engineering (CE) and their proposal for a facility using resource derived fuel (RDF) technology to the list of burner technologies with which staff could negotiate. Staff would therefore be negotiating with three different firms. The second amendment would instruct staff to enter into limited negotiations with the three firms on business and financial issues, including risk and equity contribution matters.

First Motion to Amend: Councilor Knowles moved, seconded by Councilor Kirkpatrick, to add the RDF proposal submitted by Combustion Engineering to the list of firms with which staff would negotiate.

Councilor Knowles explained it would be appropriate to include RDF technology in Resolution No. 87-780 because Metro had, from the outset, identified RDF technology as acceptable. The Review Committee's recommendation was inconsistent with that determination. Councilor Knowles also thought CE's proposal was clearly better than at least one of the mass incineration proposals in terms of risk posture, better in terms of the amount of equity they would put into the project and the amount of money they would take out of the project, and potentially better in terms of addressing the state-mandated hierarchy of solid waste disposal. Finally, Councilor Knowles said that in order to place Metro in the best possible negotiating posture, it would be best to know as much as possible about all three technologies represented.

Councilor Hansen asked if Councilor Knowles intended staff to enter into negotiations with CE assuming they would use the St. Helens' site. Councilor Knowles said the Resolution was clear -- a precondition of the project was to use the St. Helens' site for a 350,000 ton per year facility. He would not propose changing those conditions for the CE proposal.

Councilor DeJardin agreed with Councilor Knowles' amendment. He was concerned, however, that additional negotiating costs could be incurred by adding one more vendor to the list.

Councilor Knowles said his second proposed amendment would help keep costs down by proposing more limited negotiations at the onset of the process. Metro would not be committing its full resources to entering into memorandums of understanding (MOU's) with all the proposers until basic economic questions were answered to Metro's satisfaction.

Presiding Officer Waker asked Councilor Knowles to explain the exact intent of his second proposed amendment and how it would effect the MOU negotiation process.

Councilor Knowles said he did not propose changing the full MOU negotiation with Riedel. The amendment would, however, revise the Resolution to instruct the staff to enter into limited negotiations regarding those issues listed in the "Economic Impact Criteria" of the Final Evaluation Report and to report back to the Council within 60 days. He suggested that procedure due to continuing questions raised about risk posture and equity of the proposals. For example, he said, there were still outstanding questions about Fluor's parent guarantee.

Councilor Kelley reminded Councilor Knowles the Review Committee had determined that although the CE proposal was more cost effective than the cost of mass burn, RDF technology was not "tried and true." Questions remained about emission levels. She suggested Councilor Knowles include CE's proposal and provisions for limited negotiations in his first amendment. She did not think it appropriate to recommend staff enter into a MOU with CE at this time.

Councilor Knowles said he did not want to limit the possibility of entering into MOU negotiations with CE, especially since they had submitted an excellent financial proposal and since the Sierra Club and other parties had advocated that RDF was a cleaner technology than mass incineration.

Councilor Van Bergen thought the issue of the location of the next regional landfill should also be addressed in the Resolution. Councilor Gardner said he would, later in the meeting, propose an amendment that would request staff further refine system cost analysis to include two sets of assumptions for Eastern Oregon and the Bacon Road landfill sites.

Councilor Hansen requested the staff or Executive Officer respond to Councilor Knowles' two proposed amendments.

Executive Officer Cusma said she supported the Review Committee's recommendation because she believed the CE proposal was not responsive to Metro's Request for Proposals. She pointed out that Metro would eventually have to make a hard decision and narrow down the proposals. She thought it too expensive to continue negotiations with four firms and recommended going forward with the tried and true technology of mass incineration.

Ms. Allmeyer noted that although CE's proposal for RDF technology was responsive, the mass incineration proposals were ranked superior and therefore recommended for MOU negotiations.

Councilor Knowles again pointed out that CE's proposal was superior in the areas of economic risk and equity and to cut off negotiations before all economic factors were known would be unwise.

Councilor Gardner asked CE's response to Councilor Knowles' proposals.

Paul Barbian of Combustion Engineering said CE would be pleased to negotiate for a project and would add something to Metro's process. He pointed out the proposal was responsive, CE was highly rated on economic issues, and the RDF technology had been rated acceptable by the Review Committee.

Vote on First Motion to Amend: A vote resulted in:

Ayes: Councilors Bonner, Collier, DeJardin, Gardner, Hansen, Kirkpatrick, Knowles, Ragsdale and Van Bergen

Nays: Councilors Kelley and Waker

Absent: Councilor Cooper

The motion carried.

Second Motion to Amend: Councilor Knowles moved, seconded by Councilor Kirkpatrick, that Paragraph 3 of the "Be it Resolved" section of Resolution No. 87-780 be eliminated and that Paragraph 2 be replaced with language (to be drafted later) that would instruct staff to enter into preliminary negotiations with each of the proposers solely on equity and risk postures and to report back to the Council within 60 days.

Councilor Hansen said he would oppose the amendment because it could delay the MOU process and would complicate staff's negotiation process. He pointed out the Council had originally expected to complete the entire MOU process in about 60 days.

Councilor Collier asked if staff could complete the initial financial negotiations within 30 days.

The Executive Officer advised that imposing time limits could seriously hinder negotiations. She said the Council would be fully briefed at regular intervals on the status of the negotiations.

Councilor Ragsdale was also concerned about any amendment that would limit staff's negotiation leverage.

Dean Gisvold, legal counsel for the project, agreed that too many Council limitations could hamper negotiations, but he also pointed out that certain financial issues needed to be resolved very early in the negotiation process including equity, cost of the St. Helens site, and risk.

Ed Einowski, bond counsel for the project, agreed with Mr. Gisvold that certain financial issues needed to be dealt with before proceeding to the MOU phase. He said those financial issues would be very easy to identify and resolve.

Paul Atanasio of Salomon Brothers, questioned whether the "limited MOU negotiations" proposed by Councilor Knowles were really the same as formal MOU negotiations. He agreed with the opinions of Messrs.

Gisvold and Einowski. He thought 60 days was enough time to resolve financial issues. Thirty days would not be enough time.

Councilor Van Bergen asked Councilor Knowles if the second amendment would include language about landfill sites. Councilor Knowles said he did not think enough was known about proposed sites at this time to address that issue in the amendment. Councilor Gardner added that at or near the end of the MOU phase, Metro would have received more definitive information about Eastern Oregon sites and the Bacona Road site.

Ms. Allmeyer reminded the Council that the estimated fees paid to Metro's negotiating team were \$500 per hour. Consultant costs would increase if limited negotiations were conducted with Combustion Engineering. Councilor Knowles explained that the total project would eventually cost between \$300 and \$400 million and the consultants' time was well-spent if the results were the best possible project.

Councilor Gardner said he would support the amendment because it would have the effect of shortening the time for MOU negotiations and net project costs could actually decrease due to a tighter financial arrangement.

Tor Lushaug, Acting Solid Waste Director, urged the Council not to vote for the amendment or take any action that would hamper staff's negotiation process. He recommended the negotiations be conducted in one continuous process.

Councilor Bonner supported the amendment because the Final Evaluation Report had not addressed his questions about project finances.

Councilor Hansen said he hoped Councilor Knowles would draft final wording for the amendment that would instruct staff to commence the MOU process at this time, focusing on financial issues at the start, to report back to the Council within 60 days regarding financial issues, and to continue on with other aspects of the MOU negotiations.

Councilor Ragsdale requested Councilor Knowles restate the motion to establish specific language for the amendment before a vote was taken. A discussion followed about the wording of the motion. Mr. Gisvold listed key financial issues to be resolved explaining the negotiating team understood precisely what issues had to be initially resolved. Councilor DeJardin suggested the Council was placing too much emphasis on defining tasks in the amendment and that more generic wording would be more beneficial to the negotiators. Councilor Van Bergen agreed with the generic approach.

Restatement of Second Motion to Amend: Councilor Knowles proposed the following wording, which was also agreeable to Councilor Kirkpatrick, for the amendment which would replace the second "Be it Resolved" paragraph of the Resolution and eliminate the third paragraph:

"That Metro will proceed with limited negotiations with Schnitzer/Ogden, Fluor/SEI and Combustion Engineering and staff shall report back to the Council within 60 days with a recommendation on whether to proceed with a Memorandum of Understanding."

Councilor Ragsdale said he could support the above language because no restrictions were being placed on the negotiating team.

Councilor Kelley again reminded the Council that the Review Committee had eliminated Combustion Engineering from further negotiations because RDF technology was not a proven entity. She cautioned the Council against making a decision to award the project based solely on economic factors.

Vote on the Second Motion to Amend: A vote resulted in:

Ayes: Councilors Bonner, Collier, DeJardin, Gardner, Kirkpatrick, Knowles, Ragsdale, Van Bergen and Waker

Nays: Councilors Hansen and Kelley

Absent: Councilor Cooper

The motion carried.

Third Motion to Amend: Councilor Gardner moved, seconded by Councilor DeJardin for discussion purposes, to add a new paragraph 3 to the "Be it Resolved" section to read as follows:

"That entering Memorandum of Understanding negotiations does not indicate Metro necessarily will complete procurement of a resource recovery facility or facilities. The Metro staff is requested to continue to define and refine the projected costs of regional solid waste disposal systems which both exclude and include resource recovery facilities. Staff is also requested to obtain the most reliable information possible on the costs of contracting for Eastern Oregon landfill disposal."

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In response to Councilor DeJardin's question, Councilor Gardner said costs would be projected to reflect the life of the system.

Revision of Third Motion to Amend: After discussion on the motion, Councilors Gardner and DeJardin agreed to reword the amendment as follows:

"That entering Memorandum of Understanding negotiations indicates Metro's interest in proceeding with procurement of a resource recovery facility or facilities. At the same time, Metro staff is requested to continue to define and refine the projected costs of regional solid waste disposal systems which both exclude and include resource recovery facilities. Staff is also requested to obtain the most reliable information possible on the costs of contracting for Eastern Oregon landfill disposal. The ultimate decision to complete resource recovery procurement will depend on Metro negotiating the lowest cost possible."

Councilor Gardner envisioned staff would provide cost projections according to the MOU time frame. At the end of the MOU process, the Council would examine the best available system costs information to make its final decision.

The Executive Officer said she expected to have more definitive landfill cost information in September or October when the Council made its final decision.

Vote on Third Motion to Amend: A vote on the motion resulted in all eleven Councilors present voting aye. Councilor Cooper was absent.

Councilor Kelley noted that after MOU negotiations were completed, she wanted staff to address the issue of ash separation and related costs and emission levels. She suggested that emission levels be lower than Marion County's. Ms. Allmeyer invited the Council to submit other concerns to staff.

Vote on the Main Motion as Amended: A vote on the motion to Adopt Resolution No. 87-780 as amended resulted in all eleven Councilors present voting aye. Councilor Cooper was absent.

The motion carried. (Note: The Clerk changed the title of Resolution No. 87-780 to be consistent with the adopted amendments. The title now reads: "For the Purpose of Authorizing Entro Into Memorandum of Understanding Negotiations with Contractor of Mass Compost-

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ing and Limited Negotiations with Contractors of Mass Incineration and Refuse Derived Fuel.")

In response to Councilor Van Bergen's question, the Presiding Officer said the Council would address the flow control issue another time. Councilor Hansen pointed out the State Attorney General had recently issued an opinion on the matter which could be provided the Councilor. The Executive Officer said she would forward a copy of the opinion to Councilor Van Bergen.

There was no other business and the meeting adjourned at 7:10 p.m.

Respectfully submitted,



A. Marie Nelson
Clerk of the Council

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