

MINUTES OF THE METRO COUNCIL SOLID WASTE COMMITTEE

February 1, 1994

Council Chamber

Committee Members Present: Ruth McFarland (Chair), Roger Buchanan (Vice Chair), Sandi Hansen, Susan McLain, Monroe, Judy Wyers

Chair McFarland called the regular meeting of the Solid Waste Committee to order at 4:02 p.m.

1. Consideration of January 18, 1994 Solid Waste Committee Meeting Minutes

Motion: Councilor Hansen moved to approve the January 18, 1994 Solid Waste Committee Meeting minutes.

Vote: Councilors Hansen, McLain and McFarland voted aye. Councilors Buchanan, Monroe and Wyers were absent.

2. Solid Waste Updates

- General Staff Reports

Bob Martin, Solid Waste Department Director, briefed the Committee on the status of case involvement concerned with illegal dumping and the Flow Control Enforcement contract. He reported positive results so far in the effort to curtail illegal dumping, and said a detailed report was forthcoming. He said one settlement had been achieved this date of case that resulted in \$13,000 in additional recovered revenue from a hauler who had been illegally taking waste out of the region. Mr. Martin pointed out that not only the one time settlement was involved here but also the continued flow of revenue into the system as that miscreant continued to utilize the system appropriately. Mr. Martin noted there were 15 to 25 active cases of this sort which were being worked on.

3. Ordinance No. 94-528. An Ordinance Amending Ordinance No. 93-487A Revising the FY 1993-94 Budget and Appropriations Schedule For the Purpose of Funding a Compost Bin Program and the Remainder of the Project to Replace the Roof and Ventilation System at Metro South Transfer Station; and Declaring an Emergency

Roosevelt Carter, Budget and Finance Manager, presented the staff report, and said approval of the proposed ordinance would authorize two budget adjustments to the Solid Waste Revenue Fund; 1) transferring \$50,000 from Contingency to Materials & Services in the Waste Reduction Division to implement a yard debris compost bin program; and 2) transferring \$60,000 to Capital Outlay to complete the replacement of the roof and ventilation system at Metro South.

Debbie Gorham, Waste Reduction Division Manager, addressed the Committee, and briefly described the program plans.

The Committee and Staff discussed ways and means of measuring the success of the program, both for Metro and for the local jurisdictions. Ms. Gorham noted plans were in progress for future back yard composting as well.

James Watkins, Engineering and Analysis Manager, presented the staff report, and said the actual contract amount was about \$650,000, noting an expenditure allocation of \$540,000 was budgeted FY 93-94. Mr. Watkins said it was foreknown the project would carry over a two year period and would cost over the FY 93-94 allocation. He said, in response to Councilor McLain, a guarantee would have had been cost prohibitive.

The Committee expressed concerns regarding the possibility of costly future repairs without a warranty. Councilor Wyers asked if change orders to the contract were anticipated. Mr. Watkins indicated not. Councilor Hansen asked if a warranty on the ventilation system could be obtained. She noted the moisture collection inside the building were the result of inadequacies in the ventilation system.

The Committee discussed their concerns further.

Chair McFarland opened a public hearing.

Susan Ziolko, representing Clackamas County, favored support of the proposed ordinance and indicated the County felt the program would provide benefits to the region.

Jeanne Roy, Recycling Advocates, supported the compost bin program, and urged Committee approval of the proposed ordinance.

Chair McFarland closed the public hearing.

Motion: Councilor McLain moved to recommend Ordinance No. 94-528 to the full Council for adoption.

Vote: Councilor Buchanan, Hansen, McLain, Wyers and McFarland voted aye. Councilor Monroe was absent.

The vote was unanimous and the motion passed.

4. Resolution No. 94-1901, For the Purpose of Approving the Year-Five Annual Waste Reduction Program for Local Governments

Ms. Gorham and Jennifer Ness, Associate Solid Waste Planner, presented the staff report, and said Metro was in the fourth year of its Five Year Plan, and noted the proposed resolution encompassed the fifth year's activities. Ms. Gorham said Ms. Ness' role was to work closely with the local government recycling coordinators, and Ms. Ness described the program's history briefly.

Ms. Gorham distributed a document to the Committee which included recent changes to the plan indicated entitled, "Annual Waste Reduction Program for Local Governments, FY 1994-95". This document revises the document of the same name as found in the agenda packet for this meeting and is contained in the permanent meeting record. Ms. Gorham highlighted the changes as indicated in the revised document.

Councilor McLain referenced a FAX from Tri-Council which had been distributed to the Committee and other Councilors. This document has been made part of the permanent meeting record. She recommended the revision to Section 4 on Commercial Recycling as suggested by the Tri-County Council, a haulers' association.

The Committee and Staff discussed the proposed revisions further.

Motion to Amend: Councilor McLain moved amended language to the revised Annual Waste Reduction Program for Local Governments FY 1994-95, Section 4. Commercial Recycling, Metro, last sentence, paragraph 1, to read:

- "Before educational materials and/or workshops are undertaken by Metro, Metro will meet with local governments and haulers to determine if there is need for Metro involvement in that activity."

Vote on Motion to Amend: Councilors Buchanan, Hansen, McLain, Wyers and McFarland vote aye. Councilor Monroe was absent.

The vote was unanimous and the motion passed.

Chair McFarland opened a public hearing

Ms. Roy addressed the Committee, and supported the amended version of the plan with suggested revisions to language. She distributed a document to the Committee indicating those changes. This document has been made part of the permanent meeting record.

The Committee discussed the changes suggested by Ms. Roy. Councilors Hansen and McFarland indicated their support for the language presented by staff.

Ms. Roy explained her second amendment. Councilor McLain agreed that the program should set specific goals in order for local government implementation to occur.

Motion to Amend: Councilor Wyers moved to amend the language as proposed by Mr. Roy: pg. 5 Commercial Recycling, Local Governments, after the first sentence, to insert These programs shall offer convenient on-site collection for source separated recyclables.

Vote: Councilors Hansen, McLain, Wyers and McFarland voted aye. Councilors Buchanan and Monroe were absent.

The vote was unanimous and the motion passed.

Susan Ziolkowski addressed the Committee in support of the proposed resolution. Ms. Ziolkowski noted a data base of Clackamas County businesses indicated 80% of the county's businesses had less than 10 employees, which she felt configured the county's needs quite differently from the City of Portland in the area of commercial recycling.

Lynn Storz, representing Washington County's recycling team, addressed the Committee, and indicated the county supported the program as originally submitted with the resolution. She noted the county was continuing to implement its programs and was looking forward to the next five year plan.

Lee Barrett, City of Portland, addressed the Committee, and supported the program and the proposed amendments. He said Portland's emphasis had been on residential recycling programs, and that work on commercial recycling programs was getting underway. Mr. Barrett commented that study on the weight of compacted yard debris was a matter of interest and that conversation across jurisdictions was necessary to come to agreement on a number.

Councilor Wyers said she supported more funding for Challenge Grants for FY 1994-95 budget.

Main Motion as Amended: Councilor Wyers moved to recommend Resolution No. 94-1901A as amended to the full Council for adoption.

Vote on Motion as Amended: Councilors Hansen, McLain, Wyers and McFarland voted aye. Councilors Buchanan and Monroe were absent.

5. Committee Discussion and Public Hearing Related to Proposed Amendment to the Oregon Waste Systems (OWS) Contract for Disposal Services at Columbia Ridge Landfill

Mr. Martin addressed the Committee and complimented the Solid Waste Department staff for their work on negotiations on the proposed amendment to the OWS contract, which he said would save Metro at least \$27 million.

Mr. Martin distributed a document to the Committee entitled "Review of Proposed OWS Contract Amendments", in which were outlined four major elements of the proposed changes and a discussion of the rationale for accepting the terms of the amendment. He noted the actual proposed revised language appeared on the back page of the document. This document has been made part of the permanent meeting record. He noted a spreadsheet

on page 2 of the document showed projected savings by fiscal year from 1994-95 through 2009-10 based on the proposed contract amendments.

Mr. Martin said Metro would not be prevented from sending tonnage from Forest Grove elsewhere. He said the Department had received a letter from OWS which indicated claims OWS had against prior years' revenue would not be affected. Mr. Martin indicated OWS felt if Metro were to put the remainder of the tonnage out to bid, they should be placed in a position to bid on it as well. He discussed several impacts he believed would occur should the matter be put out to bid, and said he believed savings negotiated in the current proposal would spread out over the region in a more beneficial manner. He did not believe savings would occur overall by placing the matter out to bid.

Mr. Martin commented the Most Favored Rate Agreement had not been effective. He noted one small contract that unintentionally came to Columbia Ridge in which Waste Management bid Whitman County with the intention of sending the waste to another landfill, were prevented from doing so and had to send the waste to Columbia Ridge. Mr. Martin said they were now making arrangements to send the waste elsewhere and in the meantime did have to pay the Most Favored Rate, which amounted to about \$15,000 per month for five or six months. Mr. Martin said that case was the only benefit Metro had realized, and said Waste Management had not been successful in obtaining new contracts to come to Columbia Ridge at a price that was lower than Metro's. Mr. Martin noted the landfill across the river was receiving 2 million tons currently, twice what Columbia Ridge was receiving. Mr. Martin said he was not certain whether the Most Favored Rate clause was a hindrance in Waste Management's ability to recruit the waste, but he said it was believed that was the case. He said to the extent that was occurring Metro was not realizing the benefit originally intended by the clause. Mr. Martin said it for this reason that the Department proposed to substitute a liquidated dollar per ton settlement that operated similar to a host fee on each and every ton on non-Metro waste coming to the landfill in the future regardless of price.

Mr. Martin presented an overhead display, and addressed questions raised previously concerned with rate parity, how Metro's rate compared with Seattle's rate and whether the Metro rate would be greater than Seattle. A hard copy of the chart entitled "Comparison of Disposal Rates with Proposed Amendments" was contained in the document reviewing the proposed amendments referenced earlier. Mr. Martin noted Seattle would experience a rate reduction, and said Metro's current rate was about \$1 lower than Seattle's. He said under the agreement negotiation a reduction in Metro's overall would begin immediately, and said that it would stay lower than Seattle's rate until approximately 1996 when Seattle would dip slightly lower than Metro's rate for a time. He said, because of Metro's renegotiated escalation clause, from that point on Metro's rate would escalate less rapidly than Seattle's rate. He noted Seattle's inflation was approximately .6% higher than the Portland region's inflation rate. He said, from 1998 and beyond, assuming Seattle's waste continued to go to Columbia Ridge, the rate for the Metro region would be lower. He said the amendment would put Metro at a rate that was very much equivalent to what Seattle's rate was going to be. Mr. Martin said he believed both Metro and Seattle were currently above market rates for what could be obtained if bidding fresh for landfill services. He believed that would be true for FY 2001 and believed Seattle would then choose to rebid or renegotiate that agreement.

In response to Councilor McLain, Mr. Martin described the process used in the analytical work done previously by Public Financial Management. He said the Department provided Metro's assumptions, spreadsheets, contracts including Seattle's and Metro's as well as the Jack Gray contract and Forest Grove's contract. He said PFM was asked to discern whether the Department's assumptions made sense, whether the savings represented using those assumptions were accurately or reasonably estimated, whether the analytical process used was sound, and to report those findings to the Council. He noted that although PFM's analyses produced a savings figure slightly higher than that determined by the Department, they had concluded the Department's analyses used a valid approach. He said PFM produced their own assumptions and concluded the Department's assumptions had been reasonable.

In response to Councilor McLain, Mr. Martin said he felt the PFM analyses had missed factoring in information regarding the region's inflation rate, and said he would like to hear the PFM presentation before further comment on their assumptions.

In response to Councilor McLain, Mr. Martin said he was comfortable with the Department's assumptions concerning tonnage estimates of 70,000 to 120,000 tons to the Forest Grove facility over the next four to five years, the transfer station's limit. He added the savings denoted were not tied to that assumption. Mr. Martin added that the Forest Grove tonnage assumption included factors related to haulers currently transporting their loads to that facility.

Mr. Martin agreed with Councilor McLain that it would be good if the contract could be rebid, and he said it was true there was no room for anything other than negotiation. He said the contract entered into had 16 more year to run, the terms were defined, and as long as neither Metro nor Waste Management breached the contract, it would remain a valid contract.

Councilor McLain questioned Mr. Martin regarding Waste Management's claims that Metro had not given them the required amount of waste; i.e. less than 90% of all acceptable waste that Metro delivered to a general purpose landfill. He said the matter was subject to debate. Mr. Martin responded to Councilor McLain saying he believed Metro had sent approximately 90% as per the requirement FY 1991, 1992 and 1993.

In response to Councilor Wyers, Mr. Martin said the key assumptions made in the Solid Waste Department's analysis were: 1) it was not likely that additional customers would be attracted to Columbia Ridge Landfill as long as the existing Most Favored Rate provision was in effect 2) Seattle's waste would likely continue to go to Columbia Ridge if the Most Favored Rate was removed, or at least until the year 2001; 3) inflation would average approximately 4% over the next 16 years; 4) a conservative assumption regarding current levels of tonnage to Columbia Ridge landfill from Metro at 675,000 tons, Forest Grove at 65,000, and Seattle at 450,000 tons, and other tonnage at 93,000 would remain constant; 5) Seattle was receiving same rate as of January 1, 1991 and Seattle's inflation rate would cause fluctuation as shown on the Departmental analysis shown earlier; 6) that the Riverbend rate was currently \$25.83 per ton and would inflate at approximately 85% of the CPI; 7) the proposed franchise agreement with Forest Grove would be approved and would remain in effect for the life of the Oregon Waste Systems contract; 8) our transportation costs to Columbia Ridge landfill were represented by Metro's contract with Jack Gray Transport and that transportation costs to Riverbend were represented by the Forest Grove transfer station franchise.

Councilor Wyers asked Mr. Martin to provide justification for the assumption that it was not likely additional customers would be attracted to Columbia Ridge Landfill. Mr. Martin said with the Most Favored Rate in place, regardless of what it costs to dispose of waste, less profit would be made if some of the dollars had to go to Metro on any given contract as the current Most Favored Rate clause required. He said less dollars would be made if the amendment was accepted, because \$1.50 more would be paid to Metro under the amendment, but, he said, it was not as significant an impact on any individual contract as the Most Favored Rate agreement was.

Councilor Wyers raised a question about the issue of profitability. Mr. Martin said, whatever the profitability was, it was less with the Most Favored Rate agreement than it was without it. He said the result would be that OWS would be less successful in bids, and said historically that was the case. Councilor Wyers asked for information concerning the profitability issue and why that made it less likely to be successful in bidding.

Councilor Wyers raised the question that if other landfills were bidding competitively and no new waste was received at Columbia Ridge, was it possible that the projected savings for Metro would not be produced. Mr. Martin said that would happen in either case. He said the belief was that removing the Most Favored Rate agreement would, in fact, make Waste Management more competitive and more likely to win future bids.

In response to Councilor Monroe, Mr. Martin said the Adams County site had received its conditional use permit. He said there was a greater likelihood that Seattle tonnage would continue to go to Columbia Ridge if the amendments were approved.

In response to Councilor Monroe, Mr. Martin said the inflation rate estimated at 4% for the Metro region and 4.6% for the Seattle area was based on historical trend rather than current level of economic activity. He added Seattle's inflation rate averaged historically at about a .5% over the Portland area. Councilor Monroe accepted Mr. Martin's offer to make available a "sensitivity analysis" theorizing Portland's inflation rate at the same as Seattle's showing the differential in savings, which Mr. Martin said was less but still significant.

Chair McFarland recessed the Committee at 6: 23 p.m.

Chair McFarland reconvened the Committee at 6: 38 p.m.

Charles McGlashan, Christi Liebe and Robert Bramipour of Deloitte and Touche; San Francisco, California presented their professional analysis of the proposed amendments to the OWS Contract. They distributed a document to the Committee entitled, An Economic Analysis of the Proposed Contract Modifications, Oregon Waste Systems (A Subsidiary of Waste Management, Inc.) & Metro, A Report to the Metro Solid Waste Committee, dated February 1, 1994. This document has been made a part of the permanent meeting record. Mr. McGlashan said that his firm had recently been asked to do an independent analysis. He said his firm, in order to perform its research, did a fundamental check of various assumptions having a significant impact on the model. Chair McFarland noted she was satisfied that Deloitte & Touche came credentialed and would be accepted by the Committee as being effective in their field.

Mr. McGlashan enumerated key facts and figures which came from their analysis and he said: 1) Waste Management, Inc. made approximately \$10 million per year profit on existing waste flow at the current disposal rate; Metro rate payers were and would be paying approximately \$7 more per ton to dispose waste at Columbia Ridge even if the amendment were accepted, which he said represented \$7 more per ton than the market would be paying at the same time including Seattle (the Seattle contract would result in a \$5 per ton benefit improvement for Seattle, or, in other words, Seattle would be \$5 cheaper under the proposed amendment); 3) there was nothing in the existing contract, which contained the Most Favored Rate provision, blocking Waste Management, Inc. from winning new bids. Mr. McGlashan said Waste Management, Inc. had won half of the four last major bids offered in the marketplace, and said there was nothing inherent in the Most Favored Rate provision blocking Waste Management from accessing new tonnage; 4) going to Adams County or a new site or brokering waste would be \$50 to \$90 million worse for Waste Management than it would be to honor the existing contract and bring waste to Columbia Ridge; and, finally 5) under the scenario in which the existing contract was maintained and profit sharing was enjoyed under the Most Favored Rate provision, Waste Management would still be making \$15 million more profit every year than currently experienced. Mr. McGlashan said the increase in profit issues was important, and said prior analysis conducted which indicated that the proposed amendment was necessary because Waste Management paid a penalty if they brought more tonnage to Columbia Ridge. He said it was true for smaller amounts of tonnage or a per ton basis the margin dropped slightly. He said it was analogous to a company that has a sale - in the near term prices were reduced slightly to sell more products, and in the end more money was made.

Mr. McGlashan presented an overhead display referencing the aforementioned document.

Mr. McGlashan referenced page 8 of the document and said it was concluded that with the profit margin indicated, it was inaccurate to refer to the Most Favored Rate Provision (MFRP) as a "penalty." He referenced page 9 of the document and said under the amended version Metro would pay \$7 more in price per ton, and said under the MFRP Metro would benefit ratepayers, and noted the firm had performed a detailed analysis of the Seattle contract as well, the various liquidated damage provisions owed there, and the likelihood of waste coming to Columbia Ridge under the provisions of the Seattle contract and the MFRP. He referenced page 10 and said the analysis there compared the likely Seattle price under their current agreement for disposal at Columbia Ridge vs. the amendment price Metro would get should the amendment be accepted. He noted about a \$5 differential between the two.

Councilor Monroe questioned the discrepancy between the chart provided by Deloitte and Touche and the chart presented by Department Staff which showed Metro paying less than Seattle at the end of the same time period.

Chair McFarland offered to set questions to the end of the presentation. Mr. McGlashan concurred.

Mr. McGlashan referenced page 11 and 12 of the document and said retaining the MFRP would result in maximizing savings to Metro, bringing down Metro's price, and translated into cumulative value of \$132 million over the 16 years of the contract. He said the maximum potential that Metro could enjoy if the amendment were accepted and if Waste Management, Inc. won every profitable bid was \$42 million in savings. He said in accepting the amendment, Metro would be giving up \$90 million, and said it was important to note that no savings would accrue to Metro whether the proposed amendment was accepted or not unless additional tonnage was delivered to Columbia Ridge. He said the amendment in and of itself could not generate additional savings for the Metro ratepayer without additional tonnage.

Mr. McGlashan referenced page 14 which plotted weighing the risks against returns. He said his firm believed retaining the MFRP would provide maximum gains with minimum risk to Metro. He noted page 15 addressed the issue of a decrease profit margin for Waste Management, Inc. Mr. McGlashan discussed returns from disposal option as shown on the table on page 16, indicated should Metro retain the MFRP the potential outcome of savings to Metro was over \$132 million with Waste Management's profit at over \$224 million. He noted Waste Management's profit margin under the amendment scenario was \$376 million.

Mr. McGlashan summarized his remarks and referenced pages 6 and 7 of the document and urged the Committee and the Council to carefully review the proposed amendment and perhaps table the amendment for the time being.

In response to Councilor Monroe, Mr. McGlashan said their findings indicated differentials in the use of the CPI accounted for differences in inflation rates projected for the Metro region and for Seattle. He said interviews conducted with the UCLA Business Forecasting Group and the Puget Sound Regional Council reflected his firm's conclusion that setting equal inflation rates for both Seattle and Metro was a conservative approach.

In response to Councilor Monroe, Mr. McGlashan said Waste Management would be more profitable over time without the amendment.

Ms. Liebe said Deloitte & Touche believed that with the MFRP today without any new tonnage added, Metro would incur savings from the Seattle price, and believed the Seattle price would be below Metro's.

Councilor Monroe said if Waste Management was making a greater profit under the new contract with new tonnage added, it was logical to assume they would add new tonnage.

Brett Blankenship, citizen of Ritzville and representing an organization named OPAL, Organization to Preserve Agricultural Lands, and Adams County resident. Mr. Blankenship said OPAL was committed to denying the siting of a regional landfill in Adams County, and said he was a wheat rancher whose property borders the recently permitted Waste Management siting. Mr. Blankenship read testimony into the record. A copy of his testimony is part of the permanent meeting record.

The Committee commented on Mr. Blankenship's remarks.

Sean Donohue, Attorney for Metropolitan Disposal Co., Inc., a Portland company, noted the use of the term putrescible waste connoted that any truck containing 5% putrescible waste could be received at Columbia Ridge, which he said meant 100% of the waste. Mr. Donohue expressed concern regarding potential impact on Metro's ability to increase its recycling rate. Mr. Donohue felt the Committee should give heed to the analysis done by Deloitte & Touche. In response to Councilor Monroe, Mr. Donohue said MDC said Sanifill was involved in financing a recycling facility being constructed by MDC.

Councilor Wyers asked Dan Cooper, Legal Counsel, to analyze potential impact on Metro's ability to increase its recycling rate as related to the proposed contract. Mr. Cooper agreed to provide such information.

Bruce Broussard, Portland resident, addressed the Committee and said Metropolitan Disposal Co. had supported him in the recent past as he worked to create a plan to establish a more diverse work force in the region. He said he believed approval of the proposed amendments would jeopardize those efforts, and expressed his opposition.

Steve Donovan, President, Environmental Management Consultants, Inc., Portland, and Ralph Stromberger, CPA, addressed the Committee. Mr. Donovan said his firm had been working for Riverbend Landfill for the past several years. He said his firm had developed financial models to evaluate the financial impact of the current Waste Management, Inc. proposal on the Riverbend Landfill site with respect to flows to the Forest Grove facility. He said these models had been communicated to the Yamhill SWAC and Yamhill County Council, and he said tonnage flows to the facility were the most critical part of an analysis. Mr. Donovan discussed projected savings from a systematic approach and said taken into account were transportation costs of getting flows currently going to Riverbend to Arlington. He thanked Department Staff for their support and said he believed comparable savings could be produced by Riverbend and asked said Riverbend Landfill management and the ratepayers were asking Metro to put those flows to bid and allow the company to bid on that waste.

Jay Waldron, representing Columbia Resources, a company owning WasteTech, a franchised processing / recycling facility holding a Metro non-system license for the disposal of its residue from recycling as well as owning Finley Buttes Landfill, a privately financed landfill and designated facility under its Metro agreement. He said it was Finley Buttes took a more philosophical that the system should work well when everyone interests are protected and everyone was working together. He said two issues were of concern: 1) the dispute over the meaning of the existing contract; i.e. what defined 90% of total tons of acceptable waste which Metro delivered to any general purpose landfill; and, 2) Metro's budget constraints and desire to stabilize the tip fee. He said the solutions were worked out on the existing contract between Department Staff and Waste Management, not by those who set policy. Mr. Waldron said he conveyed to Todd Sadlo, Senior Assistant Counsel that the contractual language was complex and did not clarify, and he felt it might lead to further litigation. He characterized the MFRP as the Most Favored Nation clause, and questioned whether it was a savings to ratepayers or a payment to Metro. Mr. Waldron said he was not sure whose analysis was correct, and said he felt there had to be a better way than for the Committee and the Council to have to say "yes" or "no" to the specific savings presented. He said more information has come forth for all parties to look at which was helpful to the process, and suggested a way to open the process up so that all parties represented could look at the contract language and lend a helping hand to Metro. Mr. Waldron said the contractual language was very restrictive and urged more flexibility.

In response to Councilor Wyers, Mr. Martin said the OWS Proposed Amendments had been to the Solid Waste Advisory Policy Committee, and noted similar concerns had been reflected at that body. Councilor Wyers asked Mr. Waldron to contact John Houser, Council Analyst, and discuss possible policy issues.

Councilor McLain read into the record the testimony of Jerald P. Taylor, City Manager, City of Cornelius which had been FAXed to the Council Office this date. He said the City Council urged Metro to consider at least two disposal sites in order to provide a check and balance on the cost of both sites, and said that in order to take advantage of a price break now, Metro would lose the opportunity to compare prices in the future. This document has been made part of the permanent meeting record.

Diana Godwin, a Portland attorney representing Regional Disposal Co., owner and operator of Roosevelt Regional Landfill in Klickitat County, addressed the Committee. She noted a key assumption concerned itself with the question of whether or not the MFRP hindered Waste Management, Inc. from bidding in the region on contracts, and if so, Waste Management, under the current contract was unlikely to attract contracts under that provision. She said a key factor was fixed and operating cost per ton and the subsequent profit margin. Ms. Godwin said competition was ongoing, and said significant contracts were yet to come up for bid in the near future. She expressed concerns that if Metro decided to send 100% of the waste disposed of in the region to Columbia Ridge, damage would be suffered by other landfills in the region, principally Riverbend, creating a new

monopoly would be created in the region for the next 16 years, the life of the contract. She said the lack of competition in 1988 allowed Oregon Waste Systems to negotiate a contract with Metro that carried a disposal rate that was today approximately 28% above the average current market rate. She said today, because companies were taking risks building landfills and creating competition, Metro had an opportunity to realize benefits through the MFRP and the 10% waste reservation clauses in its contracts, and urged that Metro consider those opportunities. Ms. Godwin said she was prepared with figures at this time and would like to come back before the Committee in the near future.

In response to Chair McFarland, Ms. Godwin referenced the Deloitte & Touche report, and said information contained within addressed fixed costs per ton she had referenced in her testimony.

In response to Councilor Hansen, Ms. Godwin said the Deloitte & Touche report carried information regarding other tonnage that would be available in the future. Mr. Houser referenced page 3 of the tables in the back of the document noting future contracts were referred to in tonnages there related to the year anticipated.

Mr. McGlashan explained the tonnages coming up for contract over time and said the assumptions built into the model were that Waste Management or Metro would only benefit from situations in which profit was yielded for Waste Management to access that tonnage either under the amendment scenario or under MFRP.

Duane Woods, attorney representing Sanifill, discussed the contract language and recommended Section 4(a) be removed and a provision be added that said, "provided that Oregon Waste Systems agrees that acceptance of Forest Grove waste now in effect satisfies any future issues regarding 90 percent of the waste." He said Section 8(b) and 8(c) also caused concern and said the language had not been explained. He noted several cases before the Supreme Court over the right to exercise flow control, and felt the authority to do so could be in jeopardy resulting in a loss of savings. Mr. Woods questioned the provisions in Section 5(c) defining yard debris.

[Note: The testimony of Sean Donahue, Jay Waldron and Duane Woods is contained in verbatim in the permanent meeting record.]

Doug Coonan, Division President and General Manager, Oregon Waste Systems, addressed the Committee, and commented on the proposed amendments. Mr. Coonan said if the MFRP remained unchanged his company expected it would have little or no value to Metro, and said the projected savings would then not be available to regional ratepayers and would affect his company and Gilliam County in an unfortunate manner.

In response to Councilor Hansen, Mr. Coonan said no one knew Waste Management's costs other than Waste Management, and said information from others regarding Waste Management's costs should be considered speculative. Mr. Coonan said Waste Management did not view the issue as one of costs or profitability, and said his company viewed the issue as one of opportunity and responsibility. He said his firm's emphasis was to be responsive to Metro's needs.

Mr. Martin responded to the testimony and said he would prepare further response at the next opportunity. He recommended Public Financial Management review the Deloitte & Touche report and the Department Staff assumptions and analysis, and come back to Committee and the Council with an analysis of their report. Mr. Martin said his preliminary review of the Deloitte & Touche report would indicate it had been based on premises and assumptions that were mistaken. He said the Deloitte & Touche analysis was based on an increase of Metro tonnage to 1 million tons by the year 2009, which he said was derived from a 1988 document and was no longer the case. He said the region was not anywhere near that tonnage amount, and he said tonnage was stabilizing, not increasing. He said the inflation factors in the current contract were applied improperly, such as inflating fixed costs that did not inflate. Mr. Martin said Deloitte & Touche analysis suggested it would cost about \$100 million more to site and send waste past Arlington to the Adams County landfill. He said estimates between \$18 and \$30 million cost to develop the Adams County landfill were projected. He said operating costs would increase, but he said they would not double. Mr. Martin said a key assumption made was that an \$8 per ton cost increase would be incurred for transportation. He said that was not true. He said Deloitte & Touche was not privy to Union

Pacific's contract with Waste Management, and he said Waste Management was not going to share that information noting Department estimates had proved very close to actual in the past. Mr. Martin said the proposed credit on Seattle waste was incorrectly stated on the spreadsheet. He said the language expressed it correctly as an increase to \$1.50 in the near future but the spreadsheet did not take that into account, which understated the value of the amendment. Mr. Martin said a 3.5 inflation factor had been used, and said the factor was subject to argument. He said the Department used a 3.4 factor, which, he said explained the differences in the two curves as noted by Councilor Monroe. Mr. Martin said he believed contracts would be bid regardless of whether the MFRP remained intact or not, and said if the other companies did not believe removing the MFRP would affect their competitiveness, they would not be trying to talk the Committee out of the proposed amendment. Mr. Martin said Waste Management was not going to send \$132 million Metro's way in order to avoid a \$25 million capital investment in another landfill. Mr. Martin closed by reiterating he would send the analysis to PFM for further review and analysis, and said he hope the matter would come to completion soon.

Chair McFarland asked whether the Department had information regarding costs and profit at Riverbend Landfill. Mr. Martin said the cost of running a landfill was approximately \$12.04 per ton, and said the price they quoted Metro paid was \$25.83 per ton. He noted Riverbend would likely have a different figure regarding costs.

The Committee discussed the issues further. Councilor Wyers requested Deloitte & Touche be given an opportunity to alter their figures before a PFM analysis was done. Chair McFarland said it was Councilor Wyers' request to send the matter to Solid Waste Advisory Committee. Councilor Hansen said it was her hope that the matter should be held in Committee for further consideration. Councilor Monroe agreed it was wise to hold the matter in Committee and send forth a recommendation at the time it was sent out of Committee to the Council. Councilor Wyers suggested any comments from interested parties be given to all the Councilors. Councilor McLain and Hansen commented on the issues further.

There being no further business, the meeting adjourned at 9:21 p.m.

Respectfully submitted,

Marilyn Geary-Symons
Committee Recorder

monopoly would be created in the region for the next 16 years, the life of the contract. She said the lack of competition in 1988 allowed Oregon Waste Systems to negotiate a contract with Metro that carried a disposal rate that was today approximately 28% above the average current market rate. She said today, because companies were taking risks building landfills and creating competition, Metro had an opportunity to realize benefits through the MFRP and the 10% waste reservation clauses in its contracts, and urged that Metro consider those opportunities. Ms. Godwin said she was prepared with figures at this time and would like to come back before the Committee in the near future.

In response to Chair McFarland, Ms. Godwin referenced the Deloitte & Touche report, and said information contained within addressed fixed costs per ton she had referenced in her testimony.

In response to Councilor Hansen, Ms. Godwin said the Deloitte & Touche report carried information regarding other tonnage that would be available in the future. Mr. Houser referenced page 3 of the tables in the back of the document noting future contracts were referred to in tonnages there related to the year anticipated.

Mr. McGlashan explained the tonnages coming up for contract over time and said the assumptions built into the model were that Waste Management or Metro would only benefit from situations in which profit was yielded for Waste Management to access that tonnage either under the amendment scenario or under MFRP.

Duane Woods of Heller, Ehrman, White and McAuliffe, attorney representing Sanifill, discussed the contract language and recommended Section 4(a) be removed and a provision be added that said, "provided that Oregon Waste Systems agrees that acceptance of Forest Grove waste now in effect satisfies any future issues regarding 90 percent of the waste." He said Section 8(b) and 8(c) also caused concern and said the language had not been explained. He noted several cases before the Supreme Court over the right to exercise flow control, and felt the authority to do so could be in jeopardy resulting in a loss of savings. Mr. Woods questioned the provisions in Section 5(c) defining yard debris.

[Note: The testimony of Sean Donahue, Jay Waldron and Duane Woods is contained in verbatim in the permanent meeting record.]

Doug Coonan, Division President and General Manager, Oregon Waste Systems, addressed the Committee, and commented on the proposed amendments. Mr. Coonan said if the MFRP remained unchanged his company expected it would have little or no value to Metro, and said the projected savings would then not be available to regional ratepayers and would affect his company and Gilliam County in an unfortunate manner.

In response to Councilor Hansen, Mr. Coonan said no one knew Waste Management's costs other than Waste Management, and said information from others regarding Waste Management's costs should be considered speculative. Mr. Coonan said Waste Management did not view the issue as one of costs or profitability, and said his company viewed the issue as one of opportunity and responsibility. He said his firm's emphasis was to be responsive to Metro's needs.

Mr. Martin responded to the testimony and said he would prepare further response at the next opportunity. He recommended Public Financial Management review the Deloitte & Touche report and the Department Staff assumptions and analysis, and come back to Committee and the Council with an analysis of their report. Mr. Martin said his preliminary review of the Deloitte & Touche report would indicate it had been based on premises and assumptions that were mistaken. He said the Deloitte & Touche analysis was based on an increase of Metro tonnage to 1 million tons by the year 2009, which he said was derived from a 1988 document and was no longer the case. He said the region was not anywhere near that tonnage amount, and he said tonnage was stabilizing, not increasing. He said the inflation factors in the current contract were applied improperly, such as inflating fixed costs that did not inflate. Mr. Martin said Deloitte & Touche analysis suggested it would cost about \$100 million more to site and send waste past Arlington to the Adams County landfill. He said estimates between \$18 and \$30 million cost to develop the Adams County landfill were projected. He said operating costs would increase, but he said they would not double. Mr. Martin said a key assumption made was that an \$8 per ton cost increase would

be incurred for transportation. He said that was not true. He said Deloitte & Touche was not privy to Union Pacific's contract with Waste Management, and he said Waste Management was not going to share that information noting Department estimates had proved very close to actual in the past. Mr. Martin said the proposed credit on Seattle waste was incorrectly stated on the spreadsheet. He said the language expressed it correctly as an increase to \$1.50 in the near future but the spreadsheet did not take that into account, which understated the value of the amendment. Mr. Martin said a 3.5 inflation factor had been used, and said the factor was subject to argument. He said the Department used a 3.4 factor, which, he said explained the differences in the two curves as noted by Councilor Monroe. Mr. Martin said he believed contracts would be bid regardless of whether the MFRP remained intact or not, and said if the other companies did not believe removing the MFRP would affect their competitiveness, they would not be trying to talk the Committee out of the proposed amendment. Mr. Martin said Waste Management was not going to send \$132 million Metro's way in order to avoid a \$25 million capital investment in another landfill. Mr. Martin closed by reiterating he would send the analysis to PFM for further review and analysis, and said he hope the matter would come to completion soon.

Chair McFarland asked whether the Department had information regarding costs and profit at Riverbend Landfill. Mr. Martin said the cost of running a landfill was approximately \$12.04 per ton, and said the price they quoted Metro paid was \$25.83 per ton. He noted Riverbend would likely have a different figure regarding costs.

The Committee discussed the issues further. Councilor Wyers requested Deloitte & Touche be given an opportunity to alter their figures before a PFM analysis was done. Chair McFarland said it was Councilor Wyers' request to send the matter to Solid Waste Advisory Committee. Councilor Hansen said it was her hope that the matter should be held in Committee for further consideration. Councilor Monroe agreed it was wise to hold the matter in Committee and send forth a recommendation at the time it was sent out of Committee to the Council. Councilor Wyers suggested any comments from interested parties be given to all the Councilors. Councilor McLain and Hansen commented on the issues further.

There being no further business, the meeting adjourned at 9:21 p.m.

Respectfully submitted,

Marilyn Geary-Symons
Committee Recorder