

MINUTES OF THE SOLID WASTE COMMITTEE  
OF THE METROPOLITAN SERVICE DISTRICT

February 14, 1989

Committee Members Present: Councilors Gary Hansen (Chair),  
Sharron Kelley (V. Chair),  
Roger Buchanan, Mike Ragsdale and  
Judy Wyers

Others Present: Dan Cooper, General Counsel

Chair Hansen called the meeting to order at 5:35 p.m.

1. Consideration of Minutes

Motion: Councilor Ragsdale moved the minutes of  
January 12, 1989, be approved.

Vote: A vote on the motion resulted in all five members  
present voting aye.

The motion carried and the minutes were unanimously approved.

2. Consideration of Resolution No. 89-1052, for the Purpose of  
Approving the One Percent for Recycling Criteria and  
Guidelines and Request for Proposals

Councilor Wyers reported the Council had previously adopted a resolution creating the One Percent for Recycling Committee to solicit proposals for innovative recycling programs and to award grants as appropriate. She then introduced members of the committee present at the meeting. Judith Mandt, staff to the One Percent for Recycling Committee, discussed the anticipated work schedule. She also pointed out that members of the Solid Waste Committee had expressed concern about two program criteria: 1) the geographic location (proximity) of a facility receiving a recycling grant not place a vendor in direct competition with an established business engaged in a similar operation; and 2) projects receiving grants should not result in more than 50 percent residue landfilled after processing.

Councilor Kelley said it was her position that the proximity issue should not be a factor in evaluating proposals. She pointed out that if a project were truly innovative, it would not be similar to any other project in proximity to it. Bruce Louis, member of the Recycling Committee, explained the committee had included the proximity criterion because it did not want a situation of two or more programs in the same area competing for limited materials sources. Councilor Kelley suggested the

criteria language clearly express the intent as stated by Mr. Louis.

Chair Hansen acknowledged that no one wanted to create unfair competition among recyclers. He thought the Recycling Committee would use its best judgment to avoid those types of situations.

George D. Ward, 4941 S.W. 26th Drive, Portland, 97201, a consulting engineer, testified that the criteria developed by the Recycling Committee addressed Councilor Kelley's concern about unfair competition. He cautioned the Council against making the criteria too restrictive and thereby screening out "yankee ingenuity."

Motion: Councilor Wyers moved to recommend the full Council adopt Resolution No. 89-1052.

Vote: A vote on the motion resulted in all five Councilors present voting aye.

The motion carried unanimously. Councilor Hansen requested Councilor Wyers present the Solid Waste Committee's report and recommendation to the full Council.

### 3. General Staff Reports

Yard Debris Rates. Bob Martin, Solid Waste Department Director, reported staff would soon present to the Committee a proposal for amending rates for yard debris disposed at the St. Johns Landfill.

Solid Waste Legislative Package. Mr. Martin said he had recently testified before a state legislative committee in support of a bill to establish a cutoff date for the Department of Environmental Quality (DEQ) landfill siting fees. The bill was unopposed by DEQ. He reported Metro had already stopped payments to DEQ and would soon alter its landfill disposal rates to eliminate the landfill siting fee surcharge. He had also given testimony regarding a bill that would establish rates and regulations for limited purpose landfills. Interest in limited purpose landfills was currently high since many facilities were closing, he explained.

In response to Councilor Wyers' question, Mr. Martin reported that several bills had been introduced on the state level concerning the acceptance of medical wastes from out of state. He said those bills would have a minor impact on Metro's waste disposal operation.

Riedel Limited Purpose Landfill. Councilor Buchanan asked about the status of the limited purpose landfill owned by Riedel at 70th Avenue and Killingsworth and the possibility that Riedel would open another landfill at the site formerly called the Wabo Pit. Mr. Martin said Riedel had announced its intent to close the 70th and Killingsworth landfill to commercial users at the end of February subject to Metro's review. No decision had been made about the Waybo site, he said. Riedel would need to secure a land use permit to open the site and some concern had been expressed about the proximity of the site to the City of Portland's ground waster supply.

4. Consideration of Resolution No. 89-1053, for the Purpose of Awarding a Contract for Waste Transport (to the Gilliam County Landfill) to Jack Gray Transport, Inc. (Public Hearing)

Mr. Martin explained the purpose of this meeting was for staff to present its recommendation and analysis concerning the two lowest bids received for transporting waste from the Portland area to the Gilliam County Landfill. The Committee would also hear testimony regarding the bids and would have an opportunity to request information of staff as necessary. An additional hearing was scheduled before the Committee on February 28 at which time staff could respond to the Committee's specific requests.

Mr. Martin reported on staff's process for reviewing the apparent low bid submitted by Jack Gray Transport, Inc. (JGT). After consulting Dunn & Bradstreet, staff had concluded JGT was in sound financial condition. Staff had also reviewed other major contracts performed by JGT and had received unanimous feedback that the company was competent and performed excellent work according project schedules. Regarding the technical aspects of JGT's proposal, Mr. Martin concluded the company met Metro's specifications. The Oregon Department of Transportation (ODOT) would require the company to go through a certification process to ensure its equipment was safe, he explained. He was confident the company would satisfy ODOT's requirements. Finally, Mr. Martin reported it appeared that JGT had satisfied Metro's Disadvantaged/Women-Owned Business Enterprise (DBE/WBE) program requirements by exceeding the project goals.

Gary Goldberg, Vice President of JGT, discussed his firm's excellent record in the transport business. He said for the last five years the company had hauled solid waste on the east coast on a 350 mile route. He said the company had established itself as experts in handling a wide range of commodities in a safe manner and with the least amount of impact on effected

communities. Mr. Goldberg said JGT would use a local WBE firm that was an established expert in sales and manufacturing. He also explained that as part of the bid preparation, company representatives had visited sites where compacted waste was being transported. JGT was confident Metro's contract was no more difficult to carry out than other projects successfully completed, he said.

In response to Councilor Kelley's request, Mr. Martin said staff could prepare comparative information concerning the fixed cost and a price per load for a five year period. He explained, however, that the basis of the recommended bid award would not change.

Councilor Hansen requested staff secure a letter from ODOT regarding its certification of JGT. He asked if ODOT should determine, after its review, that JGT needed to reconfigure its equipment format, who would bear the added expense? Mr. Martin responded that Metro's contract required the transport company to deliver waste of a particular density at a certain rate without spilling the contents of containers. JGT would assume costs if it could not meet Metro's specifications, he said.

Chair Hansen opened the public hearing on Resolution No. 89-1053.

James Upshaw, 10245 S.E. Holgate, Portland, 97266, business manager for the Industrial Manufacturers Union, Local No. 21, testified he had worked 19 years in the transport business and in his professional opinion, the equipment configuration proposed by Jack Gray Transport, Inc. was unsafe and possibly illegal. He discussed his concerns about the potential hazards of the route along I-84 including pavement settlement, land slides, high winds and ice. Mr. Upshaw proposed the transport industry perform a review of JGT's proposal before the contract was awarded.

Donn B. Larson, 10245 S. E. Holgate, Portland, 97266, testified that Metro should request a review of JGT's proposal by industry experts in order to evaluate the equipment configuration proposed. He was concerned that the equipment conform to federal and state laws. He also thought the safety record of the second lowest responsive bidder -- Trans Industries -- was superior to that of JGT.

Testimony of Trans Industries. Representatives of Trans Industries (a joint venture of Browning-Ferris Industries of Oregon, Inc. and Transwate, Inc.) the apparent second lowest bidder on the contract to transport waste from Portland to the Gilliam County landfill, presented extensive testimony to support its claim that the JGT bid was not responsive. Representatives

discussed a written report entitled "Metro's Waste Transportation Bid: Why It Makes Sense to Take A Closer Look," dated February 13, 1989, which was distributed to Committee members and submitted for the record. Trans Industries representatives discussed their assumption that the seven axle tractor and trailer combination proposed by JGT was unstable and would not safely support and transport the type of compacted waste required in Metro's specifications. Trans Industries representatives requested Metro not award the transport bid until an independent study of the equipment proposed by JGT had been performed and until JGT had undergone all certifications requirements required by the Oregon Department of Transportation. Trans Industries representatives presenting testimony included: Charles Wilcox, Vice President, Browning-Ferris Industries; Warren Razore of Rabanco; Robert Greening; and Ken Heald, Chief Engineer, Western Highway Institute.

Tom Robinson, a trucking engineer with 36 years of experience, currently working for Freightliner, urged the the Solid Waste Committee to perform an independent study on the equipment configuration proposed by JGT before a contract was awarded. He was concerned that safe equipment be used on the project.

Bob Martin said staff would review the report submitted by Trans Industries and would report its findings to the Committee at its next meeting. At the next meeting representatives from JGT would also have an opportunity to rebut testimony given by Trans Industries. Mr. Martin remained confident JGT had submitted a responsive bid.

Mr. Martin responded to the testimony of Trans Industrial representatives that the State of Alaska and some Canadian provinces had restricted the equipment configuration proposed for use by JGT. Mr. Martin explained he had lived in Alaska and acknowledged that pavement erosion due to the annual freeze-thaw situation was a big issue in Alaska. He thought the same concern could exist in Canada. He did not think the equipment had been restricted for safety reasons.

Councilor Ragsdale requested that at the next Committee meeting, representatives of JGT provide information regarding how many additional trips would be required if it could not carry loads of the weight specified in its bid. He asked staff to provide an analysis of the range of all bids factored out over a long-term period. Mr. Martin pointed out the information could be provided but that the basis for initially awarding the bid to JGT would not change.

Chuck Garvin, 8618 Mt. Olympus, Vancouver, Washington, representative of the Laborers International Union, testified that the reason the seven-axle truck configuration was restricted in Alaska was because it was unsafe. He explained the state highway people joined the fight to ban the equipment later on during the hearings process. He also said truckers had performed road tests of the seven-axle equipment and had proven it unsafe. He urged Metro to learn from Alaska's experience.

Mr. Martin concluded that it would be ODOT's responsibility to certify JGT's equipment as safe for the proposed use. It was the bidder's responsibility to achieve compliance with ODOT's regulations. Metro's responsibility was to award the contract to the lowest responsive bidder.

In response to Councilor Ragsdale's question, Mr. Martin explained that if the contractor were found unable to carry loads of the size specified by Metro and if that resulted in having to carry more loads, the contractor would be bear the responsibility for the additional expense. If the contractor was not able to obtain ODOT certification for its equipment, it would be found to be non-responsive to Metro's bid specifications.

Mr. Goldberg of JGT reminded the Committee that JGT would present a full response to Trans Industries' testimony at the February 28 Committee meeting. He also pointed out his company had a \$200 million performance bond riding on the transport project. He assured Councilors his company could perform the work.

Chair Hansen called a recess at 7:45 p.m. The meeting was reconvened at 7:55 p.m.

5. Conseration of Stipulation and Final Order of the  
Environmental Quality Commission for the Waste Reduction  
Program

Mr. Martin reported the Department of Environmental Quality (DEQ) and Metro staff had been negotiating an agreement/stipulted order which would establish realistic Waste Reduction Plan programs and timelines agreeable to both parties. The draft agreement now before the Committee had the consensus of both DEQ and Metro staff. The agreement would require Metro Council and Environmental Quality Commission (EQC) approval. He also pointed out that Ordinance No. 89-283 had been introduced by the Executive Officer and would, if adopted, be the vehicle for the Council to approve the stipulated order and a budget amendment for implementing the revised Waste Reduction Program. The amended budget would provide approximately five additional full-

time staff and other resources necessary to carry out an effective program, he said.

Ordinance No. 89-283 would be considered for adoption by the Council on March 9. Mr. Martin said he would present the Metro Finance Committee's recommendation to the EQC on March 3. In conclusion, Mr. Martin was confident the agreement and budget amendment would result in a good, aggressive Waste Reduction Program for the region. He then introduced Rich Carson, Metro Planning & Development Director, and Peter Spendelow and Dave Rizelle of DEQ who had been closely involved in negotiating the agreement/stipulated order.

In response to Councilor Ragsdale's request, Mr. Martin reviewed how the new agreement differed from the original Waste Reduction Program adopted by the DEQ and Metro Council in 1986. Mr. Martin said the new agreement embodied the original 18 major program areas and that changes from the original program were few. Some implementation and completion dates for programs had been amended. Minor language changes had also been proposed, he said, mostly relating to the yard debris and local government certification programs.

Chair Hansen noted that the agreement, when adopted, would result in additional work for the Council and Solid Waste Committee. He announced that he had asked Ray Barker, Council Analyst, to review the agreement and identify all checkpoints and dates where Council or Committee review and action would be required. Chair Hansen said he would work to anticipate those actions and incorporate them into the Committee's work plan. He was confident the Waste Reduction Program could be completed as outlined in the agreement. He also thought Metro should investigate whether to ban source separated items, such as scrap mail, from its disposal sites.

Referring to the agreement/stipulated order document, Councilor Ragsdale asked what would be the penalty imposed on Metro by the DEQ if Metro did not produce a Waste Reduction Program "stronger than or equivalent to the 1986 Waste Reduction Program?" Rich Carson responded he had asked DEQ to provide Metro with a letter to clarify that language. He referred the Councilor to a letter from Dave Rozelle dated February 9, 1989, included in the meeting packet. Councilor Ragsdale said the agreement language seemed to remove from the Council the right to determine whether the Waste Reduction Program was working. He asked what specific standard would be used to judge whether the Program was working.

Mr. Martin said the new agreement language did not give the DEQ any powers it did not already have. Mr. Rozelle explained the

language in question related to the two largest pieces of the Waste Reduction Program: the new yard debris planning program and the old local government certification program. Metro had proposed replacing the new program for the old. DEQ had proposed agreement language that would order the old certification program to be implemented if the new yard debris planning program were not successfully implemented. DEQ had taken that stance since the state had initially managed the old certification program. He acknowledged that no specific standard existed by which to judge the effectiveness of the programs and that Metro would be relying on the good judgement of the DEQ staff and the EQC to determine whether programs were effective.

In response to Councilor Ragsdale's question, Mr. Rozelle explained the EQC had agreed to replace the old certification program with the new yard debris program because of its concern about the regional yard debris problem. The EQC Chair had proposed the language now before the Council because of his specific concern about the EQC's ability to order implementation. Mr. Rozelle added that his letter of February 9 addressed the Committee's other concerns about DEQ's right to order compliance with the Waste Reduction Program.

Councilor Ragsdale pointed out places in the agreement document where "Department Concurrence" was required. He questioned how Metro could satisfy that requirement and what would happen if concurrence could not be reached. Mr. Martin said he did not think lack of concurrence would be a problem because based on his negotiations, DEQ and Metro were working to achieve the same goals. If concurrence could not be reached, the agreement provided for a contested case process, he said. Councilor Ragsdale thought concurrence could be an issue if there was a significant turnover in staff and elected officials who did not have the same understanding as the parties negotiating the agreement. He was very concerned the agreement had not specifically defined at what point concurrence would be reached.

Referring to a requirement that spotters and gate attendants be present at Metro disposal facilities, Councilor Ragsdale asked who would pay for the additional positions. Mr. Carson said the cost of the new positions would be passed on to rate payers. Councilor Ragsdale thought that additional cost could be contested by rate payers. Mr. Martin explained that if Metro determined that the additional positions were not appropriate, it could suggest a reasonable alternative.

Councilor Ragsdale raised a number of other concerns about the agreement language. He wanted to ensure that the specific completion dates for programs were realistic. Staff assured him



they were and in many cases, work on programs was well underway. The Councilor also continued to raise questions about DEQ's ability to order Metro to implement certain programs and about how concurrence would be reached that programs were indeed successful.

Councilor Ragsdale was also concerned about the provisions of Section 8(J)(b) of the agreement that could require Metro to redesign the Metro South Station to accept loads of high grade wastes for materials recovery by a date certain. He questioned whether the timelines indicated were realistic given the political difficulties of obtaining permits for solid waste facilities. Mr. Martin explained that Metro was committed to accomplishing the redesign in the 1986 Waste Reduction Program. He thought the project could be accomplished according to schedule if budget amendment Ordinance No. 89-283 were adopted as submitted.

In summary, Councilor Ragdale said he could not support approval of the agreement as written because it contained too many open areas. He proposed the Solid Waste Committee forward a recommendation to the Finance Committee that would recommend approval of the amended budget only. Chair Hansen reminded the Committee that Ordinance No. 89-283 as submitted proposed the following actions: 1) approval of the agreement/stipulated order; and 2) approval of the budget amendment to increase staff and resouces for the Waste Reduction Program.

Motion: Councilor Ragsdale moved to recommend the Finance Commitee approve additional staff and resources necessary to implement the expanded Waste Reduction Program.

Vote: A vote on the motion resulted in all five Councilors present voting aye.

The motion carried. Chair Hansen requested Councilor Wyers present the Solid Waste Committee's recommendation to the Finance Committee when it considered Ordinance No. 89-283.

6. Solid Waste Department Quarterly Program and Budget Review, Second Quarter

Mr. Martin briefly reviewed highlights of the written report and answered questions of Councilors.

In response to Councilor Kelley's request for information about procedures for closing the St. Johns Landfill, Mr. Martin said a consultant had been hired to perform a study on landfill closure

issues. Once the study was completed, he would report the consultant's findings to the Committee.

Councilor Hansen referred to a memo from Ray Barker, Councilor Analyst, which had raised questions about staff's second quarter report. Councilor Hansen asked Mr. Martin to respond those questions at the next committee meeting.

Councilor Hansen asked if there were any program areas behind schedule or requiring corrective action. Mr. Martin said he was concerned about the procurement process for the Metro East Station. He said he would probably borrow staff from another program in order to implement the project. He also thought a Solid Waste contract compliance officer was needed to monitor contracting activity within the department.

#### Other Business

George D. Ward, 4941 S.W. 26th Drive, Portland, 97201, consulting civil engineer, testified he had just learned yesterday that the Pacific Carbide Company had ceased its efforts to sell a parcel of land in North Property to a certain party. Mr. Ward thought the land was very suitable for the Metro East Station: it was ideally situated, it was zoned for industrial use; and the land could probably be secured at a good price. He also said a large supply of lime was stockpiled on the property which Metro could use a landfill cover material. He thought the owner would be agreeable to leasing a portion of the land to Metro.

Chair Hansen asked staff to investigate the feasibility of the site.

There was no other business and the meeting was adjourned at 10:05 p.m.

Respectfully submitted,



A. Marie Nelson  
Clerk of the Council

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sw-min.214  
3/7/89