REVISED/EXPANDED MINUTES
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MINUTES OF THE METRO COUNCIL SOLID WASTE COMMITTEE

February 15, 1994

Council Chamber

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

Councilors Absent: Roger Buchanan (Vice Chair)

Other Councilors Present: George Van Bergen

1 Solid Waste Updates

- General Staff Reports

Jim Goddard, Recycling Section Supervisor, presented a display of slides showing the effects of a hurricane in Hawaii on debris collection and disposal. He noted the transfer station facility was not able to handle the debris that occurred and that Hawaiian citizens began a system of source separation and stockpiling. He said Hawaii reacted after the fact as related to the disaster, and said the situation emphasized the need to plan ahead of time in the event of a disaster as to how to handle debris. He showed slides of the Los Angeles earthquake and the aftermath as related to the need for systems to handle debris in such a situation. He noted cost could be approximately $20 to $25 per ton, and felt the Metro region was in a better position to handle debris should an event occur calling for such action.

2. .Resolution No. 94-1894, For the Purpose of Authorizing an Exemption to the Competitive Procedures of Metro Code Chapter 2.04.053 and Authorizing a Change Order to Design Services Agreement with Parametrix, Inc.

Dennis O'Neil, Senior Solid Waste Planner, and James Watkins, Engineering and Analysis Manager, presented the staff report. Mr. O'Neil displayed an aerial photograph of the St. Johns Landfill showing work to date on the closure process. Mr. O'Neil noted changes in the approach to the landfill closure had occurred, some of which had been mandated by the Department of Environmental Quality, some had come from Metro. He said the end result was increased cost in engineering services. He explained the construction management of the low permeable soil lay had not been a part of the original scope of work. Mr. O'Neil noted DEQ required certain percent slopes be achieved in the future, which required closely monitored settlement of the landfill. He noted a soil procurement project had not been originally contemplated as a separate construction effort, and said additional work related to the work was $557,000. Mr. O'Neil said construction of shallow monitoring wells and piezometers cost an additional $226,000, and had not been anticipated in the original contract. He noted technical assistance to Metro's effort to market landfill gas cost an additional $93,000 for services related to energy recovery, and other engineering services not anticipated were expected to cost up to $106,000.

Chair McFarland recalled in 1989 it had been anticipated that additional costs would be necessary, but noted it had not been known what those costs would entail. Mr. O'Neil concurred.

Mr. O'Neil discussed needs for engineering services as listed in the staff report found in this meeting's agenda packet. He said Change Order No. 15 increased Parametrix fee limit for design and construction management related services $575,000, and noted the FY 1994-95 budget proposed an allocation of $550,000 for these services.

In response to Chair McFarland, Mr. Watkins said enough money resided in the St. Johns Closure Fund to accomplish the Parametrix funding without putting the matter out to bid. Councilor Wyers asked if Metro had the staff to accomplish the additional construction related management services indicated in the staff report Mr. Watkins affirmed that staff would be available without hiring new staff.

(Continued)

In response to Councilor Wyers, Todd Sadlo, Senior Assistant Counsel, said if the amendment was more than $10,000, the Contract Review Board would be asked on a Personal Services Contract to make a decision whether or not to approve.

In response to Councilor Hansen, Mr. Watkins said an open competitive proposal would be considered for Sub-Area 4, 5, and 5a. He said the role of Parametrix would shift toward quality assurance and design at that time.

Chair McFarland indicated she was would take testimony from the public if anyone desired to do so.

Councilor McLain asked how fairness would be employed in future bidding, given that Parametrix would have an obvious edge. In response to Councilor McLain, Mr. Watkins said tests for the landfill gas had been positive, but he did not have a specific market at hand for the gas.

<u>Motion</u> Councilor Hansen moved to recommend Resolution No. 94-1894 to the full Council for adoption.

<u>Vote</u> Councilors Hansen, McLain, Monroe, Wyers and McFarland voted aye.

The vote was unanimous and the motion passed.

<u>3. Consideration of February 1, 1994 Solid Waste Committee Meeting Minutes</u>

<u>Motion</u>: Councilor Hansen moved to approve the February 1, 1994 Solid Waste Committee Meeting minutes a submitted.

<u>Vote:</u> Councilor Hansen, McLain, Monroe, Wyers and Monroe voted aye.

The vote was unanimous and the motion passed.

<u>4. Informational Report on the Solid Waste Advisory Committee's Recommendations Regarding Financing the Solid Waste System</u>

Terry Petersen, Planning and Technical Services Manager, introduced two members of the SWAC, Estle Harlan, representing Tri County Council, a haulers association in the Metro region, and Tom Zelenka, Schnitzer Steel Industries, Inc., presented a report from the Solid Waste Advisory Committee concerning the solid waste revenue system

Ms. Harlan said the SWAC concluded no one answer would resolve the basic funding problems. She said choosing function options which tied fees to services was the challenge, and said the SWAC had developed a set of funding principles as philosophical guidelines. Ms. Harland enumerated the principles. 1) User charges, or direct service benefits financed by direct fees on the service provided, 2) System benefits, 3) Generator charges; 4) Product charges for certain products that imposed an extraordinary cost to the system; and, 5) Linkages to services provided. She said other funding options should have further study, such as more equitable tip fees; a fee system for facilities, and billing generator fees via some other format, for example, property tax bills, utility bills, etc., and other special fees

Ms. Harlan expressed concern that non-solid waste activities should not be funded by the excise tax. The Committee discussed the use of the excise tax, and Councilor Wyers said she felt this was an appropriate forum for discussion of the excise tax noting she had voted against it in the first place. Councilor Monroe affirmed Ms. Harlan's right to discuss the excise tax at will.

Mr. Zelenka addressed the Committee and said the recommendations were intended to send signals to the industrial community that Metro was seeking to address the problems in the funding mechanisms, and was interested in a process toward solution.

Chair McFarland said everyone who went outside their door and did not run into a pile of garbage surrounded by vermin and other detractors benefited from a good waste disposal system.

5. Resolution No. 94-1892, For the Purpose of Revising Chapter 5, of the Regional Solid Waste Management Plan and Adjusting Tonnages at Metro Facilities

Bob Martin, Solid Waste Department Director, felt the resolution to be a prudent one, and supported the proposed resolution.

Chair McFarland opened a public hearing.

Merle Irvine, Vice President, Willamette Resources, Inc., raised a question regarding the proposed resolution, and recommended Section 4 be removed.

Councilor McLain expressed concern about approving a resolution that could tie the hands, so to speak, of future Metro Councils.

Mr. Sadlo said the resolution and the section in question was a statement of the intent of this Council. He said it would not serve to bind future Councils, who could approve legislation setting the present proposed resolution aside.

Councilor Hansen questioned the language in Section 4 and suggested it be removed.

Councilor Wyers said she was not prepared to accept removal of Section 4, and said the language was intended to send a clear signal. She noted that the matter could be revisited at a later date if so desired by a future Council.

Councilor Hansen did not agree.

Motion	Councilor Monroe moved to recommend Resolution No. 94-1892 to the full Council for adoption.

Chair McFarland commented she did not believe a mega-transfer station would be advisable

Vote	Councilors Monroe, Wyers and McFarland voted aye. Councilors Hansen and McLain voted no.

The motion passed.

Chair McFarland called for a recess at 5:25 p.m.

Chair McFarland reconvened at 5:57 p.m.

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

Mr. Martin presented an overhead display which demonstrated errors in the Deloitte & Touche report. Hard copies of this presentation have been made part of the permanent meeting record He noted inflation factors represented a reduction of $23 million in projected savings per the Deloitte & Touche report He discussed errors resulting in a flexible analysis, and he said the analysis was logically flawed. Mr. Martin said a question remained why would Waste Management spend monies when building another landfill, and said savings were anticipated under the proposed amendment.

Doug Coenen, Division President and General Manager, Oregon Waste Systems, said OWS sought a balance in negotiations that would equitably favor both parties. He said he believed the proposed change order reflected that balance He said the change order provided no down side risk to Metro, and said the amendment would save Metro rate payers a lot of money. Mr. Coenen noted these two facts had not been challenged in any discussion. He urged the Committee's support.

Charles McGlashan, Consulting Manager, Deloitte & Touche, referenced a new document dated February 15, 1994 replacing their previous Economic Analysis of the Proposed Contract Modifications report in which he said modifications were included based on new information available from Metro Staff. This document has been made part of the permanent meeting record. He said the modifications had not altered his firm's conclusion that the amendment did not represent a fair deal to Metro's rate payers, and he said the MFRP was the best deal for the region's rate payers which Metro should not relinquish it at this time. He referenced page 10 noting Public Financial Management was provided with additional assumptions and scenarios to confirm Deloitte and Touche's findings. and said his firm had now had an opportunity to test some of their scenarios using different transport assumptions for Adams County, using different inflation rates for Seattle. Mr. McGlashan said the amendment would permanently freeze Metro disposal fees at $5.44 over the market price. He said retaining the current MFRP would served to equalize Metro's disposal costs. Mr. McGlashan said Metro rate payers would in effect be subsidizing Seattle waste with approval of the amendment. He referenced page 14 in which it was demonstrated that $114 million in cumulative value would be reached with the MFRP in contrast to $43 million in cumulative value with approval of the proposed amendment. He referenced page 15 which charted the outcomes for both Waste Management improved profits and for Metro improved savings. He said Waste Management would make very good profits in the future and would not be put at a competitive disadvantage with the keeping of the current contract. He said the proposed amendment would, however, reduce Metro's benefit by about $70 million in exchange for increasing Waste Management's benefit about $80 million. Mr. McGlashan said Waste Management was essentially taking $1 from Metro and turning it into their own benefit. He said it made sense, it was the appropriate thing for Waste Management to try to convince Metro to do. He said by doing thus Waste Management would maximize their return by about $280 million over the next several years Mr. McGlashan did not believe brokering waste for the Seattle tonnage, or building a new facility at Adams County or elsewhere would be of interest economically to Waste Management. He said it would cost Waste Management $166 million to pursue one of these options, and that it would make more sense for Waste Management to honor the current contract with Metro. He said as a publicly held company Waste Management had a fiduciary responsibility to maximize their profits. Mr. McGlashan felt the only way to do that better, other than working under the current contract, was to convince Metro to accept the proposed amendment. Mr. McGlashan presented an analysis of returns from page 16 to page 22, discussed the grid on page 22, and referenced an additional document containing information with regard to the Seattle Only scenario. This document has been made part of the permanent meeting record.

Mr. McGlashan noted that although Waste Management would reduce its profit margin by honoring the MFRP, but the profit margin would still be significant. He said his firm had analyzed prior work done by Department Staff, which he said could potentially mislead the Council into believing that the current contract was hurting Waste Management's ability to compete. He discussed the estimated impact of the MFRP if Columbia Ridge received non-Metro tonnage and displayed an overhead addressing that possibility, and discussed Staff scenarios further.

Mr. McGlashan summarized saying his firm's independent analysis confirmed the fact that Metro should not accept the proposed amendment at this time. He said Waste Management was not blocked from winning bids under the MFRP; the current contract maximized benefits for Metro; it was not economical for Waste Management to use Adams County for new waste streams; and, the amendment was just as risky as Metro's current contract and was equally dependent upon winning bids. He said it would take more successful bids under the amendment to generate an equal amount of money Mr. McGlashan said his firm concluded that Metro should vigorously maintain and enforce the current contract. He said, however, his firm believed Metro should study the issue further and in more detail, and felt there was no risk to Metro to gather additional information, no risk to Metro to wait and see what different players would do in the coming year. Mr. McGlashan responded to what he termed accusations that his firm had not conducted its analysis fully independent of their client, Sanifill. He said it was his ethical responsibility as a consultant at Deloitte and Touche to render impartial and objective analyses, and said his firm's reputation for objectivity and independence was built on that principle. He recommended the recommended that Metro not consider PFM a thoroughly independent party at this time. He said his firm met with PFM without parties from Sanifill present to discuss Deloitte and Touche's modeling and assumptions, and he noted two member of the Metro Staff were present indicating instructions and the proper interpretation of his firm's analysis to PFM. He suggested the possibility of considering a panel of people, such as waste haulers, landfill operators, members of the Council and Staff, to direct and insure a truly independent analysis.

Chair McFarland confirmed with Mr. McGlashan that he would be attendant and planned to make a presentation to the Solid Waste Advisory Committee February 16, 1994.

Joe Cassin, Sanifill, said Sanifill paid millions of dollars in user fees, local taxes and employed local people, and said Sanifill was interested in the concerns of his company's shareholders, investors and rate payers. He said dollars had been invested into a solid waste system fashioned by Metro and other state regulators, and said the Metro disposal contract was the largest solid waste contract ever let in the Northwest. He said the contract was also the most profitable He said Waste Management was the largest company in the world under waste management rules. He said the deal between Waste Management and Metro involved a subsidy to compete in the market place, and as such could be considered an unfair trade policy He said free competition resulted in lower rates and fair profits in the industry to the benefit of the consumer. He said the MFRP was a common workable concept used throughout the industry which benefited the rate payers due to the economics of increased volumes Mr. Cassin said Sanifill engaged Deloitte & Touche because of their reputation and their expertise in this field, and felt their analysis raised serious questions about the equity of the proposal. He said the magnitude of the proposal required that the Council seek a truly independent review. He said key events in the next 6 months would argue against any action on the proposed amendments taking place now. He said delay on the proposed amendment would increase Metro's leverage to negotiate a better deal for its rate payers. Mr. Cassin noted the disposal fee credits proposed in consideration for releasing Waste Management from its MFRP agreement did not begin until 1995. He suggested if the matter were put out to bid, and if the bids were not as good as the Waste Management proposal, Metro could reject the bids and execute that portion of the agreement. Mr. Cassin noted the U.S. Supreme Court was to render a decision in the Spring of 1994 on Waste Management's challenge to Oregon's surcharge of out of state solid waste. He said a favorable decision would increase Waste Management's profit margin and competitiveness to attract new waste streams from outside the state. He said significant hurdles and potentially costly conditions were in Waste Management's way before an operating permit could be obtained for an Adams County landfill in eastern Washington. He said no major northwest contracts were going out to bid until the end of 1994, also. He concluded saying any proposed amendment to Waste Management's contract should be carefully evaluated.

Neil Olange, an engineer for EMCON NW, said his firm's clientele was the solid waste industry both public and private throughout Oregon. He said he believed his firm had been working in the field for many years and had a good picture of the solid waste industry. Mr. Olange said the proposed changes to the Waste Management contract had potential impacts far beyond the region. He felt it was important for the Committee to be in touch with what other players and other local jurisdictions were facing with regard to costs for operations, closure and post closure funding for landfills, environmental impairment funding and for the disposal system overall. Mr. Olange had concerns about disruption to waste flows to landfills currently operating in Oregon, and said their economic viability would be affected, noting public landfills had control over their waste streams in contrast to private, which did not. He said passage of the proposed amendment could result in Waste Management being even more competitive than they already were, and loss of employment and closures could result Mr. Olange believed financial impact throughout Oregon would be felt.

In response to Councilor McLain, Mr. Olange said it was likely that some landfill closures would continue to occur and other larger landfills were becoming what he termed regional landfills of a sort, and noted difficulties in funding post closure activities were arising. Mr. Olange said competition was stable in the waste system overall currently, and expressed concerned over possible disruption.

Councilor Wyers questioned the purpose for a document which was distributed by Department Staff to the Committee entitled, "Outline of a Request for Proposals to Transport and Dispose of Forest Grove Tonnage." Mr. Martin said the idea had been raised about the possibility of approving the proposed amendment and putting the Forest Grove tonnage out to bid, and said the outline described potential bid provisions. This document has been made a part of the permanent meeting record. Councilor Wyers felt the document was presumptive.

Councilor McLain asked what kind of direction was given to a firm such as PFM to analyze the work of Department Staff. Mr Martin said he asked PFM not to discuss their analysis with him and to report their findings to the Committee directly. He said PFM had been asked to parallel the same process in their analysis of the Deloitte & Touche report, to assess the assumptions made by Deloitte & Touche, was their analytical process valid, could the numbers Deloitte & Touche reported be duplicated. He said PFM had been asked to report independently but also to keep in touch with the Department due to the amounts of material involved Mr. Martin felt the Deloitte and Touche was a ridiculous analysis.

Mr. Martin responded to Councilor McLain, and suggested PFM be asked what their instructions from the Department were. He said he instructed PFM if it were true that Metro had left $90 million on the table, he wanted to know it now for Metro's benefit, not his own.

Councilor McLain questioned whether the figures graphed by Deloitte & Touche could be considered more conservative figures, rather than errors Mr. Martin felt Deloitte & Touche had not correctly calculated because they had not accurately comprehended Metro's inflation process and how that was applied to fixed and/or variable costs in the contract. Mr. Martin noted the Deloitte & Touche analysis conclusions always favored the bent of their client.

Mr. Martin summarized the current contract, and said it consisted of two types of compensation: 1) a per ton rate; i.e. dollars per ton, that Waste Management bid on that contract when it was awarded, starting out at around $20 and inflating each year in some predictable fashion based on what the CPI Index was going to be each year, or at 100% of West A CPI; and, 2) each and every year Waste Management would get $1 8 million from Metro, or $150,000 per month He said that portion of the total compensation did not escalate with the CPI, but was fixed. He said Deloitte & Touche attempted to put the total Metro disposal fee in a per ton basis for each of the years framed and escalated out for 16 years He said the methodology used was to put the fixed rate on a per ton rate by dividing the present tonnage sent to the landfill into $1.8 million and added that on to the variable rate making up the effective per ton rate, which he noted was about $26 96 currently He said they took that number and escalated it at about 3.5% or 4%, and he said that was not correct as a major component of that figure that did not escalate. He said it was necessary was to escalate the variable rate at the CPI assumption, at 3.5% to 4%, and divide the assumed tonnage for each of those year into $1.8 million, and add that to the result of the escalated variable rate. Mr. Martin said Deloitte & Touche had not correctly done that calculation, which he said accounted for the differentiation.

Mr. Martin discussed variations in tonnage scenarios in which Deloitte & Touche expressed a loss at a 100,000 ton scenario with gains showing with increasing tonnage scenarios. Mr. Martin said the figures expressed only a loss of revenue and as such were inaccurate as increased costs for burying tonnage coming to the landfill were not introduced into the factoring.

Councilor McLain requested a staff list of the errors found by Department Staff in the Deloitte & Touche report be provided to the Committee. Mr. Martin said he would have that available for the March 1 Committee hearing.

Chair McFarland requested the matter be held in Committee.

Mr. McGlashan said the modifications to the model were based on information from Metro Staff. He said the chart criticized earlier was based on a revenue only model to compare it to the same chart as referenced by Councilor Hansen. He said that chart was a revenue only model as well.

There being no further business, the meeting adjourned at 7:49 p.m.

Respectfully yours,

Marilyn E. Geary-Symons
Committee Recorder

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Councilors Absent: Roger Buchanan (Vice Chair)

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1. Solid Waste Updates

- General Staff Reports

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Motion — Councilor Hansen moved to recommend Resolution No. 94-1894 to the full Council for adoption.

Vote — Councilors Hansen, McLain, Monroe, Wyers and McFarland voted aye.

The vote was unanimous and the motion passed.

3. Consideration of February 1, 1994 Solid Waste Committee Meeting Minutes

Motion: — Councilor Hansen moved to approve the February 1, 1994 Solid Waste Committee Meeting minutes a submitted.

Vote: — Councilor Hansen, McLain, Monroe, Wyers and Monroe voted aye.

The vote was unanimous and the motion passed.

4 Informational Report on the Solid Waste Advisory Committee's Recommendations Regarding Financing the Solid Waste System

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Councilor Wyers said she was not prepared to accept removal of Section 4, and said the language was intended to send a clear signal She noted that the matter could be revisited at a later date if so desired by a future Council.

Councilor Hansen did not agree.

Motion — Councilor Monroe moved to recommend Resolution No. 94-1892 to the full Council for adoption.

Chair McFarland commented she did not believe a mega-transfer station would be advisable

Vote — Councilors Monroe, Wyers and McFarland voted aye. Councilors Hansen and McLain voted no.

The motion passed.

Chair McFarland called for a recess at 5:25 p.m.

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Charles McGlashan, Consulting Manager, Deloitte & Touche, referenced a new document dated February 15, 1994 replacing their previous Economic Analysis of the Proposed Contract Modifications report in which he said modifications were included based on new information available from Metro Staff. This document has been made part of the permanent meeting record. He said the modifications had not altered his firm's conclusion that the amendment did not represent a fair deal to Metro's rate payers, and he said the MFRP was the best deal for the region's rate payers which Metro should not relinquish it at this time. He referenced page 10 noting Public Financial Management was provided with additional assumptions and scenarios to confirm Deloitte and Touche's findings. and said his firm had now had an opportunity to test some of their scenarios using different transport assumptions for Adams County, using different inflation rates for Seattle. Mr. McGlashan said the amendment would permanently freeze Metro disposal fees at $5.44 over the market price. He said retaining the current MFRP would served to equalize Metro's disposal costs. Mr. McGlashan said Metro rate payers would in effect be subsidizing Seattle waste with approval of the amendment He referenced page 14 in which it was demonstrated that $114 million in cumulative value would be reached with the MFRP in contrast to $43 million in cumulative value with approval of the proposed amendment. He referenced page 15 which charted the outcomes for both Waste Management improved profits and for Metro improved savings. He said Waste Management would make very good profits in the future and would not be put at a competitive disadvantage with the keeping of the current contract. He said the proposed amendment would, however, reduce Metro's benefit by about $70 million in exchange for increasing Waste Management's benefit about $80 million. Mr. McGlashan said Waste Management was essentially taking $1 from Metro and turning it into their own benefit. He said it made sense, it was the appropriate thing for Waste Management to try to convince Metro to do. He said by doing thus Waste Management would maximize their return by about $280 million over the next several years. Mr. McGlashan did not believe brokering waste for the Seattle tonnage, or building a new facility at Adams County or elsewhere would be of interest economically to Waste Management. He said it would cost Waste Management $166 million to pursue one of these options, and that it would make more sense for Waste Management to honor the current contract with Metro. He said as a publicly held company Waste Management had a fiduciary responsibility to maximize their profits. Mr. McGlashan felt the only way to do that better, other than working under the current contract, was to convince Metro to accept the proposed amendment. Mr. McGlashan presented an analysis of returns from page 16 to page 22, discussed the grid on page 22, and referenced an additional document containing information with regard to the Seattle Only scenario. This document has been made part of the permanent meeting record.

Mr McGlashan noted that although Waste Management would reduce its profit margin by honoring the MFRP, but the profit margin would still be significant. He said his firm had analyzed prior work done by Department Staff, which he said could potentially mislead the Council into believing that the current contract was hurting Waste Management's ability to compete. He discussed the estimated impact of the MFRP if Columbia Ridge received non-Metro tonnage and displayed an overhead addressing that possibility, and discussed Staff scenarios further.

Mr. McGlashan summarized saying his firm's independent analysis confirmed the fact that Metro should not accept the proposed amendment at this time. He said Waste Management was not blocked from winning bids under the MFRP; the current contract maximized benefits for Metro; it was not economical for Waste Management to use Adams County for new waste streams; and, the amendment was just as risky as Metro's current contract and was equally dependent upon winning bids. He said it would take more successful bids under the amendment to generate an equal amount of money. Mr. McGlashan said his firm concluded that Metro should vigorously maintain and enforce the current contract. He said, however, his firm believed Metro should study the issue further and in more detail, and felt there was no risk to Metro to gather additional information, no risk to Metro to wait and see what different players would do in the coming year. Mr. McGlashan responded to what he termed accusations that his firm had not conducted its analysis fully independent of their client, Sanifill. He said it was his ethical responsibility as a consultant at Deloitte and Touche to render impartial and objective analyses, and said his firm's reputation for objectivity and independence was built on that principle. He recommended the recommended that Metro not consider PFM a thoroughly independent party at this time. He said his firm met with PFM without parties from Sanifill present to discuss Deloitte and Touche's modeling and assumptions, and he noted two member of the Metro Staff were present indicating instructions and the proper interpretation of his firm's analysis to PFM. He suggested the possibility of considering a panel of people, such as waste haulers, landfill operators, members of the Council and Staff, to direct and insure a truly independent analysis.

Chair McFarland confirmed with Mr. McGlashan that he would be attendant and planned to make a presentation to the Solid Waste Advisory Committee February 16, 1994.

Joe Cassin, Sanifill, said Sanifill paid millions of dollars in user fees, local taxes and employed local people, and said Sanifill was interested in the concerns of his company's shareholders, investors and rate payers. He said dollars had been invested into a solid waste system fashioned by Metro and other state regulators, and said the Metro disposal contract was the largest solid waste contract ever let in the Northwest. He said the contract was also the most profitable. He said Waste Management was the largest company in the world under waste management rules. He said the deal between Waste Management and Metro involved a subsidy to compete in the market place, and as such could be considered an unfair trade policy. He said free competition resulted in lower rates and fair profits in the industry to the benefit of the consumer. He said the MFRP was a common workable concept used throughout the industry which benefited the rate payers due to the economics of increased volumes Mr. Cassin said Sanifill engaged Deloitte & Touche because of their reputation and their expertise in this field, and felt their analysis raised serious questions about the equity of the proposal. He said the magnitude of the proposal required that the Council seek a truly independent review. He said key events in the next 6 months would argue against any action on the proposed amendments taking place now. He said delay on the proposed amendment would increase Metro's leverage to negotiate a better deal for its rate payers. Mr. Cassin noted the disposal fee credits proposed in consideration for releasing Waste Management from its MFRP agreement did not begin until 1995. He suggested if the matter were put out to bid, and if the bids were not as good as the Waste Management proposal, Metro could reject the bids and execute that portion of the agreement. Mr. Cassin noted the U.S. Supreme Court was to render a decision in the Spring of 1994 on Waste Management's challenge to Oregon's surcharge of out of state solid waste. He said a favorable decision would increase Waste Management's profit margin and competitiveness to attract new waste streams from outside the state. He said significant hurdles and potentially costly conditions were in Waste Management's way before an operating permit could be obtained for an Adams County landfill in eastern Washington. He said no major northwest contracts were going out to bid until the end of 1994, also. He concluded saying any proposed amendment to Waste Management's contract should be carefully evaluated.

Neil Olange, an engineer for EMCON NW, said his firm's clientele was the solid waste industry both public and private throughout Oregon. He said he believed his firm had been working in the field for many years and had a good picture of the solid waste industry. Mr. Olange said the proposed changes to the Waste Management contract had potential impacts far beyond the region. He felt it was important for the Committee to be in touch with what other players and other local jurisdictions were facing with regard to costs for operations, closure and post closure funding for landfills, environmental impairment funding and for the disposal system overall. Mr. Olange had concerns about disruption to waste flows to landfills currently operating in Oregon, and said their economic viability would be affected, noting public landfills had control over their waste streams in contrast to private, which did not. He said passage of the proposed amendment could result in Waste Management being even more competitive than they already were, and loss of employment and closures could result Mr. Olange believed financial impact throughout Oregon would be felt.

In response to Councilor McLain, Mr. Olange said it was likely that some landfill closures would continue to occur and other larger landfills were becoming what he termed regional landfills of a sort, and noted difficulties in funding post closure activities were arising. Mr. Olange said competition was stable in the waste system overall currently, and expressed concerned over possible disruption.

Councilor Wyers questioned the purpose for a document which was distributed by Department Staff to the Committee entitled, "Outline of a Request for Proposals to Transport and Dispose of Forest Grove Tonnage." Mr. Martin said the idea had been raised about the possibility of approving the proposed amendment and putting the Forest Grove tonnage out to bid, and said the outline described potential bid provisions. This document has been made a part of the permanent meeting record. Councilor Wyers felt the document was presumptive.

Councilor McLain asked what kind of direction was given to a firm such as PFM to analyze the work of Department Staff. Mr. Martin said he asked PFM not to discuss their analysis with him and to report their findings to the Committee directly. He said PFM had been asked to parallel the same process in their analysis of the Deloitte & Touche report, to assess the assumptions made by Deloitte & Touche, was their analytical process valid, could the numbers Deloitte & Touche reported be duplicated. He said PFM had been asked to report independently but also to keep in touch with the Department due to the amounts of material involved. Mr. Martin felt the Deloitte and Touche was a ridiculous analysis.

Mr. Martin responded to Councilor McLain, and suggested PFM be asked what their instructions from the Department were. He said he instructed PFM if it were true that Metro had left $90 million on the table, he wanted to know it now for Metro's benefit, not his own.

Councilor McLain questioned whether the figures graphed by Deloitte & Touche could be considered more conservative figures, rather than errors. Mr. Martin felt Deloitte & Touche had not correctly calculated because they had not accurately comprehended Metro's inflation process and how that was applied to fixed and/or variable costs in the contract. Mr. Martin noted the Deloitte & Touche analysis conclusions always favored the bent of their client.

Mr. Martin summarized the current contract, and said it consisted of two types of compensation: 1) a per ton rate; i.e. dollars per ton, that Waste Management bid on that contract when it was awarded, starting out at around $20 and inflating each year in some predictable fashion based on what the CPI Index was going to be each year, or at 100% of West A CPI; and, 2) each and every year Waste Management would get $1.8 million from Metro, or $150,000 per month. He said that portion of the total compensation did not escalate with the CPI, but was fixed. He said Deloitte & Touche attempted to put the total Metro disposal fee in a per ton basis for each of the years framed and escalated out for 16 years. He said the methodology used was to put the fixed rate on a per ton rate by dividing the present tonnage sent to the landfill into $1.8 million and added that on to the variable rate making up the effective per ton rate, which he noted was about $26.96 currently. He said they took that number and escalated it at about 3.5% or 4%, and he said that was not correct as a major component of that figure that did not escalate. He said it was necessary was to escalate the variable rate at the CPI assumption, at 3.5% to 4%, and divide the assumed tonnage for each of those year into $1.8 million, and add that to the result of the escalated variable rate. Mr. Martin said Deloitte & Touche had not correctly done that calculation, which he said accounted for the differentiation.

Mr. Martin discussed variations in tonnage scenarios in which Deloitte & Touche expressed a loss at a 100,000 ton scenario with gains showing with increasing tonnage scenarios. Mr. Martin said the figures expressed only a loss of revenue and as such were inaccurate as increased costs for burying tonnage coming to the landfill were not introduced into the factoring.

Councilor McLain requested a staff list of the errors found by Department Staff in the Deloitte & Touche report be provided to the Committee. Mr. Martin said he would have that available for the March 1 Committee hearing.

Chair McFarland requested the matter be held in Committee.

Mr. McGlashan said the modifications to the model were based on information from Metro Staff. He said the chart criticized earlier was based on a revenue only model to compare it to the same chart as referenced by Councilor Hansen. He said that chart was a revenue only model as well.

There being no further business, the meeting adjourned at 7:49 p.m.

Respectfully yours,

Marilyn E. Geary-Symons

Marilyn E. Geary-Symons
Committee Recorder