

MINUTES OF THE COUNCIL SOLID WASTE COMMITTEE  
OF THE METROPOLITAN SERVICE DISTRICT

March 2, 1989  
Special Meeting

Council Chamber

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

Committee Members Absent: None

Also Present: General Counsel Dan Cooper

Chair Hansen called the special meeting to order at 3:35 p.m. He said Agenda Item No. 3 would be considered before the other agenda items.

3. Consideration of Resolution No. 89-1062, for the Purpose of Approving an Amendment to Franchise Agreement No. 7 with Wastech, Inc., to Allow for Metro Non-diversion of Waste Procured by Wastech, Inc., Under Private Agreements, and to Establish Franchise Violation "Cure" Language (Public Hearing)

Phil North, Solid Waste Planner, explained Resolution No. 89-1062 would amend Metro's existing contract with Wastech, Inc. He said Wastech requested: 1) that Wastech be recognized as a major component of the solid waste system per Ordinance No. 88-276B; 2) that Wastech be granted a ten-year franchise; 3) that Metro agree not to direct waste away from the Wastech/OPRC facility contrary to the terms of private supply agreements which Wastech proposed to enter with commercial and industrial suppliers of high grade waste; and 4) that the franchise agreement provide "cure" language that would allow Wastech to correct alleged franchise deficiencies before a franchise violation could be declared and before fines could be levied or suspension/termination proceedings could commence. Mr. North said Wastech withdrew the first and second requests but could re-initiate them at a later date. Mr. North explained the third and fourth requests were to allow Wastech to secure project financing for its approved expansion to process 100,000 tons per year. Mr. North said staff recommended adoption of the resolution.

Chair Hansen opened the public hearing. No one appeared to testify and Chair Hansen closed the public hearing.

Councilor Ragsdale referred to flow-control language. He expressed concern Wastech, Inc., could control solid waste flow beyond the amount of their franchise process to such a degree it would have a detrimental effect on other operations within the solid waste system. Mr. North said SC-13 of Franchise Conditions applied to flow control. He said the vendor could be prevented from diverting waste away from the facility.

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Wayne Trehitt, Wastech, Inc., said their DEQ waste permit required them to process waste not eligible for transfer. He said limits asked for asked that Metro not divert any guaranteed tonnage away under the 100,000 tons. He said Wastech could process waste from Clark County which would be 45,000 tons.

Mr. North suggested amendment of SC-13(2)(a) by addition of language after "suppliers of high grade waste[.]located within the region. In no event shall franchisee be entitled to process or transfer at the facility more than 100,000 tons per year without further amendment to this agreement.

Mr. Trehitt objected to language proposed because if Wastech achieved 100,000 tons, customers would have to be cut off. Mr. Trehitt suggested the addition of language: "In no event shall the Executive Officer take any action pursuant to (a) or (b) above which would have the effect of 1) reducing the amount of solid waste received by franchise less than 100,000 tons per year or 2) preventing any supplier of solid waste from who franchisee has contracted for delivery of solid waste to OPRC from complying fully with the terms of its contract with franchisee." Mr. Trehitt said Wastech had deferred on items 1 and 2 because staff had trouble defining "major facility."

Chair Hansen asked staff why Schedule F was not included in Franchise Conditions. Mr. North said staff's effort was to address the concern that Metro desired not to have any involvement in the terms of such contracts. He said Schedule F contained language which could involve Metro in a way Metro chose not to be involved. Councilor Ragsdale said staff and the vendor could amend Franchise Conditions and the resolution could be considered after consideration of other agenda items.

1. Consideration of Resolution No. 89-1058, for the Purpose of Authorizing the Executive Officer to Execute the Stipulation and Final Order with the Department of Environmental Quality Regarding Waste Reduction Programs

Mr. Martin said Ordinance No. 89-290 would eliminate the Stipulation and Final Order with a new Waste Reduction Plan (WRP) for DEQ approval. He said the new WRP was faithful to the intent of the Stipulation and Final Order but said the Environmental Quality Commission (EQC) would consider the ordinance confrontive. He said it would not solve Metro's conflict with EQC. He said if the Committee recommended the ordinance for adoption, the Stipulation and Final Order would need to revision into an intergovernmental agreement. Mr. Martin did not know what course of action DEQ preferred. He said the Committee could take the Stipulation and Final Order as drafted, insert language which stated part of the 1986 WRP was partially implemented, and replace "Order" with "Agreement." He said an EQC hearing was scheduled March 3.

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Chair Hansen asked if Metro was obligated to implement an adopted 1989 WRP without the possibility of future revision. Mr. Martin said the issues with DEQ must be resolved in addition to adoption of any plan. Councilor Ragsdale endorsed adoption of the 1989 WRP. He said the Order meant non-Metro staff would create policy on how Metro would meet standards required. He said he told the EQC director that oversight and goal checking was acceptable, but it was preferable Metro had the authority to modify or amend plans. He said Metro would still be accountable and responsible to implement stated goals with an 1989 WRP and said there could be penalties if Metro did not fulfill stated goals.

Motion: Councilor Ragsdale moved to introduce Ordinance No. 89-290 to the full Council.

Vote: Councilors Buchanan, Ragsdale, Wyers and Hansen voted aye. Councilor Kelley was absent. The vote was unanimous and the motion passed.

Councilor Ragsdale said he preferred the Solid Waste Committee introduce the ordinance. Ray Barker, Council Analyst, asked if the Committee would table Resolution No. 89-1058. Councilor Ragsdale requested the record to show he preferred implementation of Metro's WRP via adoption of Ordinance No. 89-290 and said Resolution No. 89-1058 should not be tabled at this time.

Mr. Martin noted Ordinance No. 89-283A funded FTEs necessary to implement WRP goals. Councilor Kelley said it was sensible to convert the Stipulation and Final Order into an ordinance, but said it made more sense to regard the agreement as a land-use plan of some sort. She preferred to be partners with DEQ because DEQ and Metro shared the same goals. Chair Hansen concurred with Councilor Kelley

Peter Spendalow, DEQ recycling specialist, said DEQ did not want to make Metro policy. He said the goal was to allow Metro to create policy which DEQ would assess and find reasonable or not reasonable. To Councilor Ragsdale's question, Mr. Spendalow said the Attorney General could order Metro to implement the 1986 WRP or an alternative plan, either of which could satisfy the Stipulation and Final Order. Chair Hansen asked if Ordinance No. 89-290 would satisfy the Order. Mr. Spendalow said that would be a unilateral order.

Chair Hansen called a recess at 5:09 p.m. The meeting reconvened at 5:25 p.m.

2. Consideration of Resolution No. 89-1053 for the Purpose of Approving the Award of a Contract for Waste Transport Services to Jack Gray Transport, Inc.

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Dan Cooper, General Counsel, distributed a letter to Chair Hansen dated March 2, 1989, responding to questions raised by the Committee at the February 28, 1989, meeting. He said the Committee's questions were identical to those asked by the second lowest bidder.

Chair Hansen asked if there was legal basis to reject the Jack Gray Transport, Inc. (JGT) bid. Mr. Cooper said there were three reasons bids could be rejected. He said Metro did not have grounds to disqualify JGT on the basis of responsible bidder. He said JGT's bid was not ambiguous and specifically answered requirements asked for in a questionnaire sent to potential bidders. He said JGT's bid met all technical requirements. He said Metro did not have grounds to reject JGT's bid. He said all the bids could be rejected without fear of litigation.

Chair Hansen opened the public hearing.

Leanne MacColl, League of Women Voters, asked the Committee not to recommend the resolution. She was an eight-year member of the Portland Energy Commission and was concerned over the amount of fuel to be used by JGT to implement the contract. She said fuel prices would increase and said JGT had inserted fuel price variables in the contract. She noted it took time to inform the public on an issue such as this issue. She expressed concern about heavy truck traffic in a scenic area and how it would impact tourism. Ms. MacColl asked how JGT would handle bad weather on the proposed route.

Nancy N. Russell, Friends of the Columbia Gorge, said that organization was responsible for the national scenic area designation for the Gorge area and worked closely with environmental groups. She noted the snow fall the date of this meeting should serve to demonstrate that rail or barge should be utilized rather than I-84. She said bad weather had closed I-84 in the past and said accidents impeded traffic flow. She said Metro had chosen an unstable transportation mode. She discussed recreational use of the Gorge and yearly traffic projections. She cited information she had received from the Urban Studies Department of Portland State University which said costs involved affected 300,000 people.

Councilor Kelley said the Metropolitan Service District had over one million constituents. She noted the next lowest bid received was \$20 million more than the one received by JGT and said Metro had to show responsibility to its constituents as well.

Ms. Russell said the federal government had allocated \$74 million for the Gorge as a scenic area. She said Metro had been too hasty on the issues without sufficient consultation by the public. She said the bid document included a clause that a bid could be rejected if it was found not to be in the public interest and urged the Committee vote nay on the contract.

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Kent Rosemont, Commissioner, Hood River County, said the Hood River Commission was indignant they were not consulted. He said they learned of the solid waste transport contract three weeks previously. He cited reasons not to award the contract to JGT such the Gorge's national scenic area designation; tourism which he said was Oregon's second biggest industry; 94 trucks on I-84 each day which would impede tourism; and the excessive use of fossil fuels which led to a global warming effect. He said the taxpayer would pay the increased maintenance costs. He said he had heard Route 26 was considered the alternate route and said it was already at full capacity.

Chair Hansen said Metro had several timelines. He said to rebid the contract would still meet the St. Johns Landfill closure date, but not diversion to the Arlington Landfill. He said a rebid would affect the regional solid waste system. He said Metro had held numerous public hearings and that there were also articles in newspapers on the contract. He said testimony received earlier would have been helpful, but said it was received too late at this point.

Main Motion: Councilor Ragsdale moved to recommend the full Council adopt Resolution No. 89-1053.

Councilor Wyers was surprised by the testimony given. She believed Metro was in partnership with communities affected by solid waste issues and said Metro had not received adequate testimony from the affected communities. She referred to a letter submitted by the mayor of The Dalles. She noted she joined the Metro Council January 12 and said it was not too late to reconsider the bid. She asked the Committee to extend consideration at least one week to give citizens affected time to submit testimony.

Motion: Councilor Wyers moved to continue consideration of Resolution No. 89-1053 for two weeks to solicit additional testimony from the affected Gorge communities and discuss the issues at the March 14 meeting.

Chair Hansen said he opposed the motion but said it was a courteous gesture on Councilor Weyer's part. He said he was extremely reluctant to rebid the contract. Councilor Kelley commended the motion also and asked staff what percentage traffic would increase in the Gorge because of the bid. Jim Watkins, Engineering and Analysis Manager, said 1978 extrapolated data showed heavy truck traffic would increase five percent and overall traffic would increase one percent.

Mr. Martin referred to testimony on increased road maintenance costs. He said truck traffic paid their share of maintenance costs through the weight and mile tax. Mr. Martin referred to the \$7 per load mitigation fee. He said the highway was accessible to all and used by those who did not necessarily stop at communities on the route. He said barges were considered unsound by some and referred to floating barges in New York. He

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said if one truck wrecked, it was one load, but if a barge tipped or dumped, it would be one day's worth of solid waste in the river. He said trains could derail. He said another consideration was heavy wind surfing at Hood River which could make use of the barge mode hazardous. Mr. Martin said the bid was developed so all three modes could bid. He said if the contract were rebid, the bid response would be unknown and amounts received could be higher. He said a timeline delay could have serious impact.

Councilor Wyers said the purpose of her motion was not to rebid the contract. She said the Columbia River Gorge Commission could have an effect on the Metro Council because of the Commission's relationship with the federal government. Chair Hansen asked for a vote on Councilor Wyer's motion to continue consideration of the resolution in order to receive additional public testimony for two weeks.

Vote: Councilors Kelley and Wyers voted aye. Councilors Buchanan, Ragsdale and Hansen voted nay. The motion failed.

Vote on Main Motion: Councilors Buchanan, Kelley, Ragsdale and Hansen voted aye. Councilor Wyers voted nay. The motion to recommend the full Council adopt Resolution No. 89-1059 passed.

The Committee and staff discussed when the full Council should consider the resolution. Mr. Martin said the latest date it could be acted upon was March 23 and said a special Council meeting could be scheduled. Councilor Ragsdale said he had received a request the resolution be placed on the March 9 Council agenda.

Chair Hansen called a recess at 6:20 p.m. The Committee reconvened at 6:34.

4. Consideration of Resolution No. 89-1061

- o Request for Proposals (RFP (Private) for Metro East Station
- o Mitigation Agreement  
(Public Hearing)

Chair Hansen opened the public hearing. No one appeared to testify and Chair Hansen closed the public hearing.

The Committee and staff discussed the RFP briefly. Chair Hansen said the RFP and some of the recyclables listed were too specific and said over the next 20 years recyclables would change. Chair Hansen said the Committee would consider the resolution again March 14.

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3. Consideration of Resolution No. 89-1062, for the Purpose of Approving an Amendment to Franchise Agreement No. 7 with Wastech, Inc., to Allow for Metro Non-diversion of Waste Procured by Wastech, Inc., Under Private Agreements, and to Establish Franchise Violation "Cure" Language (Public Hearing)

Staff and the vendor returned to the meeting with amended language. Mr. North said SC-13(2)(a) would be amended by deletion of the period at the end of the paragraph and the addition of provided however that the provisions of SC-13(1) above shall apply to any tonnages beyond 100,000 tons per year under any such agreements.

Motion to Amend: Councilor Ragsdale moved to amend Franchise Conditions SC-13(2)(a) with language as stated above.

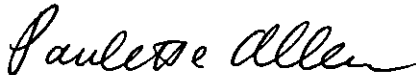
Vote on Motion to Amend: Councilors Buchanan, Kelley, Ragsdale, Wyers and Hansen voted aye. The vote was unanimous and the motion passed.

Main Motion as Amended: Councilor Ragsdale moved to recommend the full Council adopt Resolution No. 89-1062 as amended.

Vote on Main Motion as Amended: Councilors Buchanan, Kelley, Ragsdale, Wyers and Hansen voted aye. The vote was unanimous and the motion passed.

Chair Hansen adjourned the meeting at 6:30 p.m.

Respectfully submitted,



Paulette Allen  
Committee Clerk  
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