

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

May 31, 1988

Council Chamber

Committee Members Present: Gary Hansen (Chair), Sharron Kelley (V. Chair), Larry Cooper, Tom DeJardin, Jim Gardner, Corky Kirkpatrick, George Van Bergen

Chair Hansen called the meeting to order at 5:31 p.m.

1. Consideration of Minutes of April 12 and 20, 1988

Motion: Councilor Kelley moved, seconded by Councilor Kirkpatrick, for approval of the minutes.

Vote: Councilors Kelley, Cooper, Gardner, Kirkpatrick, Van Bergen and Hansen voted aye. Councilor DeJardin was absent. The motion carried and the minutes were approved.

2. Briefing on St. Johns Landfill Closure and East Transfer & Recycling Center (ETRC) Schedule

Bob Martin, Engineering Manager, said the St. Johns landfill would be operational until January 1991. The date projected assumed beginning in 1990, solid waste would be transported via the Clackamas Transfer and Recycling Center (CTRC) to the Arlington Landfill when that site was operational. He said staff received a recommendation from the Department of Environmental Quality (DEQ) for a foreclosure draft permit which approved the tentative closure work plan. Mr. Martin said a hearing was scheduled June 16 in North Portland to review the timeline and schedule of events.

Mr. Martin said a Request for Proposals (RFP) had been issued for engineering services to analyze site conditions at the St. Johns Landfill. He said nine firms responded and were narrowed to five. He said the five firms would respond by June 1, 1988, with detailed proposals. He said an evaluation committee of Metro employees, DEQ representatives and representatives from the City of Portland would review the proposals. Mr. Martin said Council would receive a recommendation on which firm was the most qualified vendor.

Mr. Martin said the transport RFP had an evaluation committee also to review the structure of the transfer station RFP proposals as well as the transport Request for Bids (RFB). He said the staff transportation

bid recommendation was based on containerized movement of solid waste so that containers could be moved by three possible transportation modes. Mr. Martin said meetings would be held with Gilliam County officials to ascertain the best transportation methods for the area. Mr. Martin discussed container safety. Mr. Martin said RFB's were difficult to structure because the exact location of where ETRC would be sited was as yet unknown. Staff defined a general footprint for vendors to bid on.

Councilor Van Bergen asked if Ray Barker, Council Assistant, had been involved in staff activity and meetings. Councilor Van Bergen asked for a report of staff activity up to the date of this meeting. He was concerned about any policy implications included in the DEQ draft permit. Councilor Van Bergen said he would like all potential and existing policy involvements submitted in a staff report.

Councilor Kirkpatrick asked the what the timeline was for release of the RFB's and RFP's. Mr. Martin said an RFP would not be released until July. Mr. Martin said the RFB would return to the Committee to discuss policy implications.

3. Report on the Results of the Memorandum of Understanding (MOU) Negotiations with Riedel Environmental Technologies, Inc., for a Mass Composting Facility

Rich Owings, Director of Solid Waste, said staff had the Memorandum of Understanding (MOU) for Council consideration. He hoped to deliver the latest MOU draft to Committee Friday, June 3. Also to be delivered was a report from the negotiating team. He said at the Council meeting June 9 the negotiating team: Harvey Gershman, Gershman, Brickman & Bratton; Paul Atanasio, Dean Witter; Dan Cooper, General Counsel; and Debbie Gorham, Analyst; would make a presentation. Mr. Owings said the goal was to have the MOU signed by July 1, 1988.

Ms. Gorham said the Council suspended negotiations in January with Riedel because there was no firm facility price; no commitments for marketing compost; and no financing plan. Riedel submitted complete information on these issues April 15 in good order, Ms. Gorham said. She briefed the Committee on letters of interest received; instruments of credit for a Triple A rating; refinements to the deal costs; tax status; and compost quality. She said if the character of the waste changed, Riedel was committed to deliver the required high quality of compost. She briefed the Committee on incremental tip fees and what would result if Riedel produced more than 35 percent in residue. Ms. Gorham said the site had a permit and would cost \$1.25 million.

Councilor Kelley asked what Metro's responsibility was as the gatekeeper regarding compost quality and possible litigation if hazardous waste was mixed with other waste. Ms. Gorham said as

gatehouse operators, Metro would not monitor the production of compost; Metro would be in charge of monitoring the waste and collecting fees. A public drop-off center would be at the facility, so staff would monitor waste accepted. Ms. Gorham said there was always some risk of hazardous waste, but staff would monitor and hand-pick the waste carefully.

Councilor Van Bergen asked that Mr. Barker be made part of the negotiating team to assist in briefing the Council. Chair Hansen concurred. Councilor Cooper asked what would happen if Riedel exceeded the 35 percent residue limit. Ms. Gorham said it was not Metro's responsibility to landfill the residue; Riedel would contract directly with the Arlington Landfill. Councilor Gardner requested the Committee receive a summary similar to the summary included in the committee agenda packet, as well copies of the complete MOU.

4. Update on the Metro Council/Policy Committee Retreat

Mr. Owings said the retreat facilitator would be Jim Durham, consultant. Mr. Owings said the retreat would begin Friday, June 3, at 4:30 p.m. at the Red Lion Inn. He said an all-day session would take place Saturday. Councilor Cooper asked if local elected officials would attend. Mr. Owings said yes.

5. Clackamas Transfer & Recycling Center (CTRC) Information and Update

Mr. Owings said Executive Officer Cusma's plan to curtail local haulers began Monday, May 23, and 119 persons were turned away from the facility. On May 24, 79 persons were turned away. On May 25, 64 persons. On May 26, 62 persons; and then 52 persons on May 27. Saturday, May 28, the facility was open a half day for recyclers and the few commercial haulers who use the facility on Saturdays; 77 persons were turned away. Mr. Owings said on Memorial Day, few persons came to the facility. He said on the day of this meeting May 31, no members of the public appeared, and the public was aware of the situation.

Mr. Owings said the last week's tonnage average was 776 tons compared to the previous week's average--825 tons. He said letters were mailed to commercial haulers asking for their cooperation in heavy-load diversion. He said by mid-June, if tonnage had not been reduced on a voluntary basis, mandatory restrictions would be instituted.

Councilor Kirkpatrick asked how many phone calls Metro received from the public on the issue. Mr. Owings estimated the number of calls received. Councilor Kirkpatrick asked for a report to show the exact number of calls received.

Chair Hansen asked Mr. Cooper when Metro had to comply with the imposed tonnage limitation. Mr. Cooper said he discussed the matter with legal counsel for the City of Oregon City. He said it was concluded in that discussion Metro had begun compliance and legal action would not be taken against Metro. Councilor Gardner asked when Metro began compliance with the 700-ton limit. He noted Mr. Owings said last week's tonnage average was 776 tons. Mr. Cooper said Metro would need to comply immediately because Metro had no flexibility in the matter.

Councilor Van Bergen asked when citizens were deprived access and whether the 30-day time limit began on the court order date or June 1. Mr. Cooper said the 30-day period began the date the court order was signed May 12 which gave Metro until June 12 to comply. Chair Hansen thought the court order took effect May 23. Mr. Cooper said that was the date the Executive Officer's plan was implemented.

6. Consideration of Ordinance No. 88-253, for the Purpose of Setting Policy on Complying With Conditional Use Requirements for the Use of the Clackamas Transfer & Recycling Center (CTRC) (Public Hearing)

Chair Hansen introduced amended Ordinance No. 88-253A. He said two versions of Ordinance No. 88-253 were before the Committee for consideration. Councilor Kirkpatrick asked Chair Hansen what the intent of Ordinance No. 88-253A was.

Chair Hansen said the policy in effect had been instituted by the Executive Officer to stay within the imposed limit. He said Ordinance No. 88-253 was meant to maintain CTRC at its regular operating capacity until the end of the month when the limit was reached. He said Ordinance No. 88-253A would give the Executive Officer options with which to keep the facility open to the private haulers, and still maintain the monthly limit. Chair Hansen said several options in the revised version would assist the Executive Officer in complying with the restriction.

Chair Hansen called a recess at 6:20 p.m. so that additional copies of Ordinance 88-253A could be made available to the public. The meeting reconvened at 6:36 p.m.

Chair Hansen officially opened the public hearing.

Wayne Trewhitt and Merle Irvine, Wastech, Inc., testified on the impact the tonnage limitation would have on Wastech. Mr. Trewhitt outlined several options Wastech had formulated to keep within the imposed tonnage limit. He said by cutting non-fixed hauling costs and if some employees were laid off, some monetary loss could be reduced. He said in spite of such cut-back measures, Wastech's net loss would be

at least \$190,000. He said Wastech would probably request Metro to compensate for at least part of their loss.

Mr. Trewhitt said Wastech's original contract with Metro was signed in 1982. He said the Portland Cost Price Index had increased 13 percent since then and the contract cost-adjustment had only increased 2.56 percent. He said the proposed loss of tonnage would result in a deficit of \$231,000. He said if the conservative \$190,000 loss estimate was added to that figure, the amount lost would be devastating. He said Wastech stood to lose recycling revenue, seven employees, and possibly have to cut back or lose their minority subcontractor.

Councilor Kirkpatrick asked Mr. Trewhitt and Mr. Irvine if they had solutions to offer since the court order limited Metro to 700 tons per day, or 21,000 tons per month. Mr. Trewhitt said the issue was not litter or traffic, but money. He suggested a third party negotiate the matter. He said Metro could assist Wastech with their financial losses. Mr. Irvine said highly recyclable loads could be banned from CTCR.

The Committee, Mr. Trewhitt and Mr. Irvine discussed host fees and the tonnage limitation further. Mr. Trewhitt said the private sector should not suffer because of the tonnage limit. Mr. Trewhitt offered Wastech's services as intermediary or in any other capacity.

Councilor Cooper took exception to the idea that Metro provide revenue for other jurisdictions and said the Wastech situation was unfortunate. Councilor Cooper asked Mr. Cooper what Metro's liability would be if Metro violated the court order and was in danger of contempt of court. Mr. Cooper said Metro would be the defendant in such a case.

Estle Harlan, Tri-County Council, distributed a memorandum dated May 31, 1988, entitled "Clackamas Transfer & Recycling Center - Policy Issues." Ms. Harlan discussed the memorandum which included commentary on Ordinance No. 88-253 and Resolution No. 88-927; possible banning of drop box loads and/or heavy loads; and diversion credits for companies using an alternative facility to CTCR.

In response to Councilor DeJardin, Ms. Harlan said she believed the industry could limit itself and reach the imposed limit by controlling haulers who could take loads elsewhere. Ms. Harlan said the limit could be reached by curtailment of public use which had been done. Councilor Gardner asked Ms. Harlan what she thought of the host fee issue. Ms. Harlan felt host fees in general were not acceptable. Ms. Harlan said it had been difficult to determine what would be acceptable to Oregon City. Ms. Harlan said, however, charging a reasonable host fee was acceptable.

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Ms. Harlan said there were some sites already zoned for drop boxes and the placement of drop boxes in strategic sites would assist the public and alleviate the situation. Councilor DeJardin asked Ms. Harlan to draft a proposal on the drop box alternative. Ms. Harlan said she was in the process of writing a report on the tonnage amounts haulers were diverting from the facility and said the numbers were quite high.

Chair Hansen asked if diversion credits to haulers would encourage the industry to go to other facilities. Ms. Harlan said whenever there were rate incentives, rate diversions and rate penalty costs there was the issue of equity costs. Ms. Harlan said diversion credits would help, but haulers who had diverted in the past should also be eligible.

Alayne C. Woolsey, 818 Fourth St., Oregon City, said the problem began with Metro's original application which stated the facility would hold 350 tons. She said Metro asked to increase the tonnage limit and that Metro had said the garbage pit could hold a greater amount of waste. She said staff had been asked several times to resubmit the application. She said Oregon City had been more than generous to Metro. She said Metro had not developed strong recycling programs. Ms. Woolsey said it was fair to ask Metro to compensate Oregon City for litter and traffic congestion problems caused by CTRC.

The Committee and Ms. Woolsey discussed the dispute between Oregon City and Metro. Councilor Van Bergen asked Ms. Woolsey what she would recommend Metro do to alleviate the situation. Ms. Woolsey said Metro should submit to Oregon City a corrected application which stated CTRC's true solid waste capacity; offer financial compensation for inconvenience suffered; and negotiate with Oregon City officials for a legitimate enhancement fee per ton.

Councilor Cooper said the excess tonnage was difficult to dispose of. He said Metro was trying to accommodate the limit. He strongly felt Metro offered a public service, not only to the residents of Oregon City, but also to rest of the region. He asked if a sewage treatment plant would be taxed, since such a facility also provided a public service.

Councilor Kirkpatrick responded to Ms. Woolsey's statement on the previously stipulated 350 ton per day limit. Councilor Kirkpatrick reminded Ms. Woolsey that 350 tons per day was a figure based on the assumption that Metro would eventually have a burner in operation. Councilor Kirkpatrick said the 350-ton figure was no longer relevant. Ms. Woolsey said she referred to the application itself.

George D. Ward, 4941 S.W. 26th Dr., Portland; said he was employed as a consulting civil engineer and referred to his previous testimony on March 15, 1988, before the Committee regarding toxic wastes dumped in

Alkali Lake. He said he had received further information on that issue and would make it available to staff.

Mr. Ward said he was testifying for Teufel Nurseries and had a suggestion to offer which might assist Metro. He said Teufel Nurseries had their own landfill and he had been hired as a consultant to help Teufel Nurseries resolve their landfill problems. He offered to work with staff on a composting review of the region. He realized Metro was under pressure to meet the tonnage limitation at CTRC. He said it was quite possible that Metro, the nursery industry and DEQ could work together to site a temporary disposal site for yard debris. He said such a site would easily conform to DEQ standards. Mr. Ward said nurseries and landscape architects could transport their yard debris to such a site and divert a substantial amount of tonnage from CTRC.

Councilor DeJardin suggested Mr. Ward and staff meet and return to the Committee with a report on Mr. Ward's proposal. The Committee thanked Mr. Ward for his testimony.

Chair Hansen asked if anyone else present would like to testify. No one present appeared to testify and Chair Hansen declared the public meeting closed.

Motion: Councilor Kelley moved a three-member subcommittee composed of Council Solid Waste Committee members be appointed by Chair Hansen to meet with the City of Oregon City and report back to the Council Solid Waste Committee or to the Council their findings and recommendations.

Councilor Kirkpatrick said she was hesitated to support Councilor Kelley's motion because the retreat would be held the next weekend and agreement might be reached with the local jurisdictions. She said the Committee needed to find a solution to the problem, comply with the court order, and at this meeting make a policy recommendation to the Council.

Councilor Cooper supported Councilor Kelley's motion. He said staff should be involved. Councilor Gardner advocated discussion with Oregon City also, but felt the issues involved were not specific to Oregon City alone. He said the issues applied to other solid waste facilities, the communities in which they were located, and whether the host cities should be compensated. Councilor Gardner said such issues could be discussed with the county officials present at the retreat.

Chair Hansen supported Councilor Kelley's motion. He said it was correct to address the relationship between Metro, Oregon City and CTRC. He noted Ordinance No. 88-253A addressed a similar issue which stipulated that:

The Presiding Officer of the Metropolitan Service District appoint a task force to recommend to the Council a regional policy concerning enhancement fees and local taxing authority of solid waste facilities.

Chair Hansen said that clause was included because Metro had an enhancement fee for the St. Johns Landfill imposed by the State Legislature. He said Oregon City sought a different approach through their taxing authority. He said enhancement fees should be analyzed on the regional level rather than negotiating with individual solid waste facilities and governments. But, Chair Hansen said, there were issues peculiar to the CTRC debate.

Councilor DeJardin agreed with analysis of enhancement fees. He said industry paid fees. He concurred with Councilor Cooper's assessment of various public service facilities and whether such facilities should be charged fees since they served the public good. He felt the issues were not regional only in nature and whatever would be done would be applicable to the entire state. He said he would be happy to draft a proposal to the Presiding Officer and the Executive Officer regarding those concerns.

Councilor Van Bergen felt the motion to appoint a subcommittee deferred action that should be taken immediately. He preferred the original ordinance to Ordinance No. 88-253A. He said an appeal should be filed and there were only 30 days left in which to file. He said if the appeal was not feasible later, it could be abandoned. He said it was intolerable the public could not use CTRC.

Councilor Kelley said the motion to appoint a subcommittee was not meant to replace other actions, but to demonstrate Metro's willingness to deal with the situation and intent to comply with the law. Councilor Kelley said there was no reason the three appointees could not gain from the retreat and had hoped for a majority of support on the motion.

Vote: Councilors Kelley, Cooper, DeJardin, Kirkpatrick and Hansen voted aye. Councilors Gardner and Van Bergen voted nay. The motion passed.

Main Motion: Councilor Gardner moved to recommend the full Council adopt Ordinance No. 88-253.

Councilor Gardner said two ordinances were before the Committee. He said one stated when Metro reached the 21,000 ton per month limit solid waste could not be disposed of at CTRC. He said Ordinance No. 88-253A offered a variety of options to divert waste from CTRC and avoid closure of the facility.

Councilor DeJardin felt it was the haulers' responsibility to remain under the tonnage limit. Because of the testimony heard at this meeting, he believed Metro would be able to stay within the limit.

First Motion to Amend: Councilor Gardner moved to amend Ordinance No. 88-253 as indicated in Ordinance No. 88-253A except that Paragraph 1 of Ordinance No. 88-253 become Paragraph 7 of Ordinance No. 88-253A.

Chair Hansen said he objected to the first "Whereas" of the original ordinance which stated:

WHEREAS, The Metropolitan Service District must comply with a City of Oregon City land use requirement to restrict solid waste deposited at the Clackamas Transfer & Recycling Center to a monthly average of 700 tons per day;

because it had stated, "Without discrimination to all." He said for any compliance with the limit, some would have to be discriminated against. He also objected to the insertion of Paragraph 7, the original Paragraph 1. He said the Paragraph would limit Metro from preventing users who used the facility in an inappropriate way.

Councilor Gardner suggested addition of language in Paragraph 7 which would state, "After all users," that, "Except as above," be inserted. "Above" was Paragraph 4 which referred to yard debris and loads that contained a high percentage of recyclables.

Councilor Van Bergen commented on Ordinance No. 88-253A. He said Paragraph 1 discussed a functional plan which was not a new concept. He did not object to Paragraph 2 which stated the Executive Officer and Council would work together to develop temporary, alternative sites. He said Paragraph 3 would offer mutually inconsistent instructions in the ordinance because it called for a diversion credit program. He asked who would receive such diversion credits. He objected to the materials banned in Paragraph 4 and asked how such bans could be enforced. He said Paragraph 5 which called for a Task Force appointed by the Presiding Officer was an issue which had been addressed at this meeting and might defer action needed to be taken immediately.

Councilor Van Bergen said companion legislation such as Resolution No. 88-927 was acceptable, but an ordinance was needed to fill the void and ensure compliance. He said again Metro would need to file an appeal. Mr. Cooper said the adopted ordinance required both the Presiding Officer and Executive Officer to concur on filing an appeal. Councilor Van Bergen said he was pleased Judge Bagley's order prevented the Oregon City Planning Commission from imposing a conditional use permit which would have reduced the tonnage to 100 tons.

Chair Hansen said insertion of Paragraph 1 as Paragraph 7 would maintain the original intent of Ordinance No. 88-253. He said Councilor Van Bergen's comments were realistic, but Metro would need to do everything possible to maintain the limit, keep CTCRC open to the public, and manage the facility in an orderly manner.

Councilor Kirkpatrick said she could not support Councilor Gardner's substitution, but could support a reworking of it if a paragraph were added which stated, "The Executive Officer and the Council work with the hauling industry, contractors, and try to get landscape debris permit processes changed to divert as much tonnage as possible from CTCRC." She thought diversion was fraught with problems. She did not want the Executive Officer to make decisions on the banning of yard debris or loads containing a high percentage of recyclables.

Councilor Gardner approved economic credits to encourage haulers to divert waste. He said if fees could be waived at facilities, haulers would be encouraged to drive longer distances to dispose of solid waste.

Councilor Van Bergen asked Councilor Gardner if he would second a motion to withdraw Paragraphs 3 and 4. Councilor Gardner said the two Paragraphs were necessary. Chair Hansen concurred.

Second Motion to Amend: Councilor Gardner moved to amend Ordinance No. 88-253A, deleting subsection c of Paragraph 4 and also changing the date in Paragraph 6 to July 31, 1988.

Councilor Kirkpatrick said Paragraph 6 would not be relevant if Paragraph 7 were added. Councilor Van Bergen asked Councilor Gardner if he would agree to delete, "changes may include, but shall not be limited to the following," from Paragraph 4. Councilor Van Bergen said if that deletion was not made, subsection c would be effective again.

Chair Hansen said changes made would revert to the concept of minor operational changes. He suggested elimination of "changes may include," and not listing the three options. Councilor Van Bergen wished to delete Paragraph 4.

Third Motion to Amend: Councilor Kirkpatrick moved to amend Ordinance No. 88-253A by deleting Paragraph 4.

Councilor Kirkpatrick said if Paragraph 4 were deleted, she would move a substitute paragraph similar to the one mentioned earlier.

Vote on Third Motion to Amend: Councilors Kelley, DeJardin, Kirkpatrick, and Van Bergen voted aye. Councilors

Hansen and Gardner voted nay. Councilor Cooper was absent. The motion passed.

Fourth Motion to Amend: Councilor Kirkpatrick moved to amend Ordinance No. 88-253A, adding a new Paragraph 4 which would state, "That the Executive Officer and Council work with the hauling industry, contractors and landscape debris permit process to decrease solid waste flow to the Clackamas Transfer and Recycling Center in order to comply with the 700 ton limit."

Vote on Fourth Motion to Amend: Councilors Kelley, DeJardin, Gardner, Kirkpatrick, Van Bergen and Hansen voted aye. Councilor Cooper was absent. The vote was unanimous and the motion passed.

Fifth Motion to Amend: Councilor Kirkpatrick moved to amend Ordinance No. 88-253A by deleting Paragraph 3.

Councilor Gardner opposed the amendment because he said economic incentives were needed.

Councilor Kelley said Paragraph 3 was worth consideration but objected to the language. Councilor Kelley said the language meant to say, "That the Executive Officer be empowered..." instead of, "That the Executive Office is empowered..." Councilor Kelley preferred the Committee request the Executive Officer consider implementation of a diversion credit program.

Councilor Van Bergen objected to the language also. He said, however, the Council had the authority to set facility rates. He said the language meant, "The Executive Officer is empowered to develop and implement a diversion credit program." He said if the Paragraph said, "The Executive Officer is empowered to develop and recommend a diversion credit program to the Council," the language would be correct.

Withdrawal of the Fifth Motion to Amend: Councilor Kirkpatrick withdrew the motion to delete Paragraph 3 of Ordinance No. 88-253A.

Sixth Motion to Amend: Councilor Van Bergen moved to amend Ordinance No. 88-253A in Paragraph 3 to state, "The Executive Officer is empowered to develop and recommend a diversion credit program to the Council."

Vote on the Sixth Motion to Amend: Councilors Kelley, DeJardin, Gardner, Kirkpatrick, Van Bergen and Hansen

voted aye. Councilor Cooper was absent. The vote was unanimous and the motion carried.

Seventh Motion to Amend: Councilor Gardner moved to amend Ordinance No. 88-253A by amending the language of substitute Paragraph 6 in the sentence that began, "In implementing such measures," be changed to delete the words "or have" to read "and," instead and to add a period to the end of the sentence with Clackamas Transfer and Recycling Center in it. The amended language would state, "In implementing such measures, the Executive Officer shall ensure that members of the general public and private entities hauling their own waste have adequate alternative sites and reasonable access to the Clackamas Transfer and Recycling Center. The date August 1, 1988, was changed to July 31, 1988. The word "implement" was changed to "designate."

Councilor Gardner said the original language implied there either be alternative sites or access to CTRC, but it did not clearly state the public would have access to CTRC. By changing the "or have" to an "and," Councilor Gardner said the public would be provided with an option.

Councilor DeJardin objected to the amendment, but said the main objective was to stay within the tonnage limitation. Chair Hansen said his concern was similar to Councilor DeJardin's. Chair Hansen said if there were alternate sites that included drop boxes, haulers could not use them. The only drop box users would be the public. Chair Hansen because of the emergency situation, he did not think the public had to be guaranteed their choice of facilities.

Councilor Gardner said by making the language more general, the drop boxes would be made more attractive to private haulers. Councilor DeJardin asked Ms. Harlan if the hauling industry provided drop boxes whether they would be used. Ms. Harlan said the drop boxes would be run by Metro and would be used.

Vote on the Seventh Motion to Amend: Councilors Kelley, Gardner, Kirkpatrick, Van Bergen and Hansen voted aye. Councilor DeJardin voted nay. Councilor Cooper was absent. The motion passed.

Chair Hansen asked for a vote on the main motion as amended. Chair Hansen recapped the amendments. Chair Hansen said the language that CTRC would remain open to all users until the monthly limit was reached and then closed until the start of the next monthly cycle was returned as Paragraph 7. Paragraph 6 was amended. A new Paragraph 4 was substituted in lieu of the deleted Paragraph 4. Minor changes were

made in Paragraph 6. Councilor Kirkpatrick noted Councilor Gardner meant to retain the original language in the third "Whereas" rather than delete the language, "available for use without discrimination."

Eighth Motion to Amend: Councilor Hansen moved to delete
"available for use without discrimination to all."

Vote on the Eighth Motion to Amend: Councilors Kelley, Gardner, and Hansen voted aye. Councilors DeJardin, Kirkpatrick and Van Bergen voted nay. Councilor Cooper was absent. The motion failed.

The Committee did not vote on the first and second motions to amend the ordinance. By adopting the ordinance as amended, it is assumed it was the Committee's consensus to approve those amendments.

Vote on Main Motion as Amended: Councilors Kelley, Gardner, Kirkpatrick, Van Bergen and Hansen voted aye. Councilor DeJardin voted nay. Councilor Cooper was absent. The motion passed.

Councilor Gardner asked Mr. Irvine if amended Ordinance No. 88-253 would alter his and Mr. Trewhitt's testimony at this meeting. Mr. Irvine said all diversion methods would have an impact on the contractor. Mr. Irvine did not believe the ordinance recommended to the Council would alleviate any of Wastech's contract concerns.

Councilor Van Bergen discussed again the need to file an appeal opposing the court order. Mr. Cooper said he understood at the last Council meeting it had been agreed to authorize the appeal if the Executive Officer concurred. Mr. Cooper said the Executive Officer had not yet reached a final decision. He said the time limit had not expired, but the motion passed at this meeting would make it clear the Committee wished to file an appeal. Mr. Cooper said a resolution would be the appropriate vehicle to request an appeal be filed.

Motion: Councilor Van Bergen moved a resolution be drafted to file an appeal of Judge Bagley's Oregon City decision.

Vote: Councilors DeJardin, Gardner, Kirkpatrick, Van Bergen and Hansen voted aye. Councilors Kelley and Cooper were absent. The vote was unanimous and the motion passed.

Mr. Cooper said he would assist Mr. Barker in preparing the resolution. Chair Hansen said the next appropriate action would be to introduce a motion to introduce the above resolution directly to the Council agenda.

Motion: Councilor Gardner moved to introduce and recommend Committee approval of the resolution to appeal Judge

Bagley's decision to Council.

Vote: Councilors DeJardin, Gardner, Kirkpatrick, Van Bergen voted aye. Councilors Kelley and Cooper were absent. The vote was unanimous and the motion passed.

Councilor Van Bergen requested a copy of the original application by Metro to Oregon City. He requested Mr. Barker get the document. Councilor Gardner said he would like a copy as well as amendments, if any.

Ms. Carol A. Powell, 301 Washington, Oregon City, said most of the information requested would be included in the body of the Oregon City Planning Commission meetings. Ms. Powell said CTRC was currently operating under a variance to the original planning conditional use permit which stipulated 300 tons per day to give Metro a total of 700 tons per day. Ms. Powell said to call the City of Oregon City for the pertinent documents from their files.

7. Consideration of Resolution No. 88-927, for the Purpose of Delaying Action to Impose Restrictions on Use of the Clackamas Transfer & Recycling Center Pending Adoption of Council Policy (Public Hearing)

Chair Hansen asked the Committee if the purpose of the resolution already requested to file an appeal served the purpose of Resolution No. 88-927. The Committee concurred.

8. Consideration of Ordinance No. 88-250, for the Purpose of Adding Chapter 5.04 to the Metro Code to Provide for a One Percent for Recycling Program (Public Hearing)

Councilor Gardner noted some elements of the ordinance included resource recovery options. He asked Mr. Owings if the ordinance were meant to replace the portion of the Solid Waste Reduction plan that applied to developmental technology RFP's. Mr. Owings said that portion would complement the plan because in a given year, the Council could set priorities for the one percent allocation. Mr. Owings suggested amending the language in the Metro Code:

Section 5.04.020 Funding: The Council shall create a separate fund from the Solid Waste budget equal to one percent of each fiscal year's budget:

Mr. Owings said the language could be clarified to state "Solid Waste Operating Budget," instead of "budget."

Councilor Kirkpatrick questioned the necessity of a separate fund. Councilor Van Bergen objected also. Mr. Owings said a separate fund

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would ensure the funds allocated would not be used for administration or staffing. The funds allocated would be devoted to grants. The Committee discussed the issue briefly, but deferred consideration of the ordinance to another meeting because due to the late hour, interested members of the public had left.

Chair Hansen adjourned the meeting at 9:30 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Paulette Allen". The signature is written in black ink and is positioned above the typed name.

Paulette Allen, Clerk
SWC88.152