

APPROVED
Date 8-2-94

MINUTES OF THE METRO COUNCIL SOLID WASTE COMMITTEE

July 5, 1994

Council Chamber

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

Chair McFarland called the regular meeting of the Solid Waste Committee to order at 4:03 p.m.

Chair McFarland noted a number of letters had been received concerning agenda item no. 5 relating to the Executive Officer's decision to send waste from the Forest Grove Transfer Station to the Columbia Ridge Landfill. These documents have been made a part of the permanent meeting record.

1. Consideration of June 7, 1994 Solid Waste Committee Meeting Minutes

Motion: Councilor Hansen moved to approve the June 7, 1994 Solid Waste Committee meeting minutes as submitted.

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

The vote was unanimous and the motion passed.

2. Solid Waste Updates

• General Staff Reports

Bob Martin, Director of the Solid Waste Director, presented a general staff report, and said he had attended a press conference last week in which Thriftway grocery stores announced they were expanding their program to collect plastics to the odd numbered plastics (1-3-5-7) as well as the even numbered plastics (2-4-6) they have collected on an ongoing basis. In response to Chair McFarland, Mr. Martin said collection would occur on the 4th Saturday of each month.

Mr. Martin said he and Councilor Hansen attended opening ceremonies for a new facility that Metropolitan Disposal Company just opened. He said the facility would take mixed refuse from various commercial accounts throughout the region with the intent to recycle as much of that as possible with residual going to the landfill. He said that facility was authorized and franchised by the Metro Council several months ago, and said the facility looked very good and that the equipment was first rate. He noted cardboard markets were currently high, and that the facility should do well. He noted Metro required a 45% recycling rate minimum as a condition of franchise, and said it was his understanding that even during the normal shake-out at start-up, the facility was getting over 50%.

Chair McFarland opened a public hearing.

Jack Polenz, resident of King City, testified before the Committee and inquired regarding the plastics recycling program and in particular regarding plastics to be dissolved. Mr. Martin said Thriftway would collect all plastics types, which fell into 7 groupings some of which were easily dissolved, along with others which would require further processing. He said a company named Partec would be involved in the processing.

Chair McFarland closed the public hearing.

3. Informational Briefing From Representatives of EcoFocus Related to a New Program For Recycling Motor Oil Containers

Chair McFarland postponed agenda item no. 3 to a later time to allow the representatives from EcoFocus time for arrival.

4. Resolution No. 94-1954, For the Purpose of Reappointing Robert H. Bay, Joan Chase, and Christopher Foster to Three Expiring Terms on the Metro Central Station Community Enhancement Committee

Katie Dowdall, Community Enhancement Coordinator, presented the staff report, noting Ordinance No. 91-437 established the Metro Central Enhancement Committee and provided for reappointment of members according to the nominating process outlined therein.

Motion: Councilor Hansen moved to recommend Resolution No. 94-1954 to the full Council for adoption.

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

The vote was unanimous and the motion passed.

5. Resolution No. 94-2001, For the Purpose of Supporting Passage of Flow Control Legislation By the United States Congress

Terry Petersen, Planning and Technical Services Manager, presented the staff report, and referenced a memorandum from Todd Sadlo, Senior Assistant Counsel, to Rena Cusma, Executive Officer, and Judy Wyers, Presiding Officer, dated May 27, 1994 regarding a recent U.S. Supreme Court decision concerning flow control. Mr. Sadlo's memorandum was included in the permanent meeting record. He noted Mr. Sadlo reported to the Committee that in his opinion the Supreme Court decision did not have significant impact on Metro's current system of fee collection, facilities franchising or designating within the region. Mr. Petersen noted Mr. Sadlo had reported there was pending national legislation that would grant local governments the authority to regulate flow in a way that could be contradictory to the Supreme Court decision. He said the proposed resolution would declare Council's support for passage of such national legislation in concept.

He referenced a revised version, Resolution 94-2001A, which was distributed to the Committee. Chair McFarland clarified the "A" version contained an amendment to exclude recyclables separated from other waste which would be acted upon separately.

Councilor McLain asked that Department or Legal Staff return to the Committee on a monthly basis with updates on flow control legislation. Mr. Martin said he understood Legal Counsel was working on a report for the Committee on pending legislation. Mr. Martin said he intended to attend a national conference in August in which the subject would be discussed and said he would subsequently bring back information to the Committee.

Main Motion as Amended Councilor Hansen moved to recommend Resolution No. 94-2001 to the full Council for adoption.

Chair McFarland opened a public hearing.

Paul Cosgrove, representing American Forest and Paper Association, testified before the Committee and distributed a document entitled, "Proposed Flow Control Legislation -- Recycling and the Paper Industry." He supported the amended version of the proposed resolution.

Jeff Murray, Far West Fibers, Inc., Beaverton, Oregon, addressed the Committee and said he neither supported nor opposed the amended version, but noted strong opposition to the original version of the proposed resolution.

He referenced a letter from Far West Fibers, Inc., dated July 1, 1994. This document has been made a part of the permanent meeting record.

Councilor Wyers entered a letter from EZ Recycling dated July 5, 1994 into the record.

Councilor McLain commented in support of the amended version, and noted she looked forward to the report from Legal Counsel in an upcoming agenda.

Vote on Main Motion as Amended: Councilors Buchanan, Hansen, McLain and McFarland voted aye.
Councilor Wyers voted no.

The motion passed.

The Committee considered agenda item no. 3 at this time.

Pete Bitar and Randy Hoffman, Royal Recovery, Inc., addressed the Committee and said they had been working with Chevron service stations and were seeking input from the Metro Solid Waste Committee at this time in order to determine some direction for their endeavor.

The Committee welcomed the opportunity to be involved with the project, and Councilor Wyers suggested Department Staff be involved in discussion with Mr. Bitar and Mr. Hoffman for the purpose of helping meet recycling goals.

Mr. Bitar and Mr. Hoffman described the process utilized to reprocess the plastic used in the motor oil containers, and noted an economy of scale currently prevented the company from charging a reduced price to the stations involved. They indicated they hoped to increase the stations they serviced to a larger group than the Chevron stations.

Mr. Martin expressed interest in the project and said the Market Development Staff of the Solid Waste Department was appreciated opportunities to work with such entrepreneurs in the recycling industry as were represented by Royal Recovery, Inc.

6. Informational Briefing Relating to the Executive Officer's Decision to Send Waste From the Forest Grove Transfer Station to the Columbia Ridge Landfill

Mr. Martin addressed the Committee and referenced a memorandum from Rena Cusma, Executive Officer, dated June 23, 1994 announcing her decision regarding transferring Metro's waste from the Forest Grove Transfer Station to Columbia Ridge. This document has been made part of the permanent meeting record. He noted the reasons outlined in the memorandum from Ms. Cusma were: 1) immediate savings now; 2) no disruption in operations or service at Metro Central or the Forest Grove Transfer Station; 3) the decision did not preclude consideration of other, more favorable, options if and when they materialized; and 4) concerns of Yamhill County citizens and officials regarding Metro's long term use of the Riverbend landfill with a subsidized rate at the county's expense.

Mr. Martin referenced his response dated July 5, 1994 to a memorandum from Sanifill dated June 24, 1994. This document has been made part of the permanent meeting record. He said accepting a proposal as authorized by the current franchise for the Forest Grove Transfer Station was a recognized method, and said the Executive was granted the authority to review and accept or reject proposals from A.C. Trucking regarding transport of waste, which, he said, the Executive did in approving this proposal. He said should the Sanifill proposal be accepted, a period of review by the Committee and the Metro Council prior to adoption of such an agreement. He noted it was true there was disagreement whether or not the Executive had the ability to amend contracts under certain conditions. Mr. Martin understood there was no dispute that the Executive did not have the ability to initiate entirely new contracts without the review and the authorization of Council. He said available savings would be

lost should Sanifill bring in a new proposal at this time, but, he said the action taken did not prevent Sanifill from doing so followed by Council review. He said a letter was being drafted to present to the Executive for possible signature to invite Sanifill to formalize their proposal and present such if they felt they had one that was more attractive.

Mr. Martin said he recommended the decision to the Executive, and said the decision was hers. He said it was felt important to take those savings now. He said it was not a precipitous action without debate, and said six months of discussion over the issue had occurred regarding where to send the Forest Grove Transfer Station waste. He noted the savings would be immediate while at the same time would not lock Metro out of any other possible available actions by the Council.

Councilor McLain asked about hours at Metro Central for receiving the waste, and Mr. Martin said Metro Central opened at 3 a.m. and would continue to do so. Mr. Martin noted the hours entailed no additional cost as the facility was not opening any earlier than before. In response to Councilor McLain, Mr. Martin said Cornelius Pass was the route being used. Councilor McLain requested a map showing the route being used be made available to her the next day.

Councilor Wyers expressed concern regarding the lack of notification to local jurisdictions in the Forest Grove Transfer Station and Riverbend landfill area. In response to Councilor Wyers, Mr. Martin said prior to now a process of notification had been undertaken, as well as numerous hearings held including before the Solid Waste Advisory Committee, two briefings with public notice before the Metro Solid Waste Committee, and he said time for citizen comment had occurred. Mr. Martin believed the process for involvement had been made available for Yamhill County citizens and thought they might have been involved prior to this time. He indicated he had not been aware of the level of Yamhill County's interest until this time.

In response to Councilor Wyers, Mr. Martin said a verbal proposal had been given by Sanifill that to continue to allow the waste to go to the Riverbend landfill would save Metro more money. Mr. Martin said that proposal was given strong consideration. Mr. Martin said other factors weighed into the decision to send the waste to Columbia Ridge, one of which was the impact on the flow guarantee clause with Oregon Waste Systems, a requirement to send 90% of Metro's waste to Columbia Ridge landfill. He said with Forest Grove's waste going to Riverbend landfill for the entire year, Metro would be depending on whether Metro's definition of how to compute the 90% was accepted or Waste Management's definition. He said the possibility would exist to be slightly over 90% or slightly under 90%. Mr. Martin said with the decision that Forest Grove waste be directed to the Columbia Ridge Landfill, Metro would be in fulfillment of their 90% clause with Oregon Waste Systems no matter who's definition was used, and would be, in fact, over the 90% flow guarantee agreement. He said the figures would be from 92.5% to 95.5%, depending on how and by whom the calculations were made. Mr. Martin said there would be no dispute over the flow guarantee clause under the current Forest Grove waste arrangement.

In response to Councilor Wyers, Mr. Martin referenced a letter dated June 20, 1994 to Mr. Ambrose Calcagno, A.C. Trucking, detailing the changes to A.C. Trucking's franchise the proposal would result in, and indicating the terms of the proposed agreement to temporarily deliver solid waste received at the Forest Grove Transfer Station to Metro Central for reload and shipment by Jack Gray Transport to Columbia Ridge Landfill. Mr. Martin noted A.C. Trucking paid Waste Management directly for disposal, noting Metro paid Jack Gray Transport for transport from Metro Central to Columbia Ridge as provided under the current contract. He said Waste Management rebated a credit to Metro equal to Metro's cost of transport plus a credit over and above that transportation cost to Metro, which he said was where the savings were realized.

Councilor Wyers questioned the action by the Executive to amend the Forest Grove Transfer Station franchise. Councilor Wyers indicated she would follow up with Todd Sadlo, Senior Assistant Counsel, regarding the matter. She felt a potential issue as to whether or not the Council needed to approve that change existed, and she indicated the matter would be reviewed by Bill Gary, Outside Legal Counsel.

Mr. Martin said the actual franchise agreement, Section 7.6.2, specifically authorized the Executive to accept or reject proposals from A.C. Trucking. He said this action on deciding on this proposal was somewhat unlike the current contract amendment dispute. Councilor Wyers felt there could be some disagreement on that count.

Councilor McLain requested Staff provide a transcript of any of the meetings in which the Forest Grove franchise was discussed and in which Section 7.6.2 was discussed. She said she wanted the questions she asked at that time and the answers that she was given by Mr. Martin on when it was appropriate to discuss whether what she termed, "we", would or would not, and attempt to determine who Mr. Martin thought "we" was, and who the rest of the Council thought "we" was. Councilor McLain felt a fuller discussion could occur given that history. Donald E. Carlson, Council Administrator, said Staff would work with Councilor McLain to obtain that information.

Chair McFarland opened a public hearing.

Bob Emrick, McMinnville City Sanitary Service, prior owner of Riverbend Landfill, and chairperson of the Governmental Affairs Committee of the state association of haulers, the Oregon Sanitary Services Institute for the last six years, testified before the Committee. Mr. Emrick indicated he was angry, and said he had held discussion with every mayor, governmental official and county commissioners about being contacted regarding this issue. He said he did not believe official contact had occurred. Mr. Emrick felt a close working relationship had been the norm in the past, and said Metro had hurt that relationship by taking the stance, that is, that for \$10,000 Metro would redirect its waste without letting the county know. Mr. Emrick said weekly and monthly curbside recycling programs were in great part subsidized by Metro's sending waste to Yamhill County. He said those recycling programs were jeopardized, and said, in fact, those programs would cease unless a way to resolve that issue was found. He felt time was necessary to resolve the issue, and said he was letting folks know in McMinnville that Metro did have an issue in terms of where was the waste going to go from Forest Grove. He said he the McMinnville News Register supported in an article the previous Saturday a licensing agreement that would allow Riverbend landfill to be a competitor in the process of the waste stream being put out to bid. He said he was not aware of any contact from the Solid Waste Department indicating this was an issue or that a decision to action was to occur at a certain date and point in time, nor to inquire as to what the impact of that action would be or to look to a way to help to resolve that issue. Mr. Emrick said that did not occur, and he added he had never heard of such a thing happening before, that is, not contacting a jurisdiction regarding a matter that impacted that jurisdiction. He felt a certain amount of jurisdictional professionalism should be involved, and felt that had not occurred. Mr. Emrick said there was sufficient supportive documentation that a significant rate impact would attribute to Yamhill County should the waste stream to Yamhill County be lost, first of which would be the recycling subsidies for Yamhill County recycling programs. He asked Metro Staff to reconsider their action. Mr. Emrick said he felt other jurisdictions Metro was seeking to work with would be hesitant to do so, and he mentioned Newberg as one.

Councilor McLain emphasized there were some Councilors who were as shocked and surprised and upset as he was. Mr. Emrick understood it was a Staff decision.

Edward J. Gormley, City of McMinnville Mayor, addressed the Committee and said he had received no correspondence at his office at City Hall or at home or his business regarding the issue under discussion. He referenced his memorandum to Ms. Cusma dated June 24, 1994. This document has been made part of the permanent meeting record. Mayor Gormley read a statement into the record: "No advance notice has been received by Yamhill County, the cities of Yamhill County, Riverbend landfill, or the solid waste collection haulers that service our region. To say the least, we are at a loss as to the lack of notice to affected parties of this decision. The loss of Metro's waste will have a substantial rate impact on our residences, businesses, and industry. The process to adjust our rates alone will take at least 60 to 90 days. In view of the many years during which our community has served as a host to Metro, we insist that you rescind or delay the implementation of this action until local jurisdictions can process any rate adjustments." Mayor Gormley said he spoke today on behalf of the citizens of Yamhill County, asking to stay that activity so that we can adjust our rates as we need to at the local government. He felt that was a reasonable approach.

Mr. Polenz addressed the Committee and referenced the July 5, 1994 memorandum from Mr. Martin to the Metro Council. He asked why Sanifill had not gone to the County Commissioners directly but rather had come to Metro. Chair McFarland said Sanifill would have to obtain the approval of the Metro Council but was not certain as to the sequence Sanifill would need to employ. Councilor Wyers suggested Mr. Polenz questions could be better addressed directly to Department Staff, and indicated they would be able to help him get the information. Chair McFarland suggested Mr. Polenz prepare and make a copy of his questions and the answers received from the Staff available to the Committee.

Arnold Cogan and Joe Cassin, Sanifill, addressed the Committee and said citizens of Yamhill County had used the word "stunned" when informed of Metro's decision. He referenced several letters from cities and others in Yamhill County. These documents have been made part of the permanent meeting record. Mr. Cogan said the disruption of the flow of waste from Forest Grove to Riverbend came in the middle of an important series of negotiations between the County and Sanifill on a new license agreement. Mr. Cogan said the change in the flow would have the effect of destabilizing and upsetting the basis for that discussion. He said the loss of the waste would result in increased fees of as much as 30% for the remaining people using Riverbend landfill. He said the souring of the relationship between Metro and its neighboring government was impactful and a setback. He said prior to now the relationship was doing well. Mr. Cogan discussed Sanifill's proposal for a \$30,000 rebate to Metro per month if the waste from Forest Grove continued to flow to their Riverbend landfill in McMinnville. Mr. Cogan and Mr. Cassin felt they had been informed their proposal was the best proposal. Mr. Cassin said Metro's 8.6% of garbage was extremely important to the Riverbend landfill operation, and said without that waste stream coming in, rates would have to be increased. He said the County was aware of that, and said that was why the County was interested in giving Riverbend landfill a license agreement, so that Sanifill could come back with a competitive bid when the bids did go out. He said it was their impression that was to occur in February.

Councilor Hansen indicated she felt it was the responsibility of Sanifill to inform the citizenry in Yamhill County rather than the responsibility of Metro to do so. In response to Councilor Hansen, Mr. Cassin felt Sanifill had acted in everyone's best interests, and he said Sanifill had informed interested parties that future actions were possible. He said they were under the impression from their negotiations that the future was several months away and said the County Commissioners were aware of that. He said the fact that action occurred Thursday, June 23rd was a shock, and said they were disturbed by the timing of the action. Councilor Hansen disagreed.

In response to Chair McFarland, Mr. Cassin said a portion of the host fees collected by Riverbend and paid to Yamhill County on all waste streams coming in went toward implementing recycling programs in smaller communities.

Scott Bradley, General Manager, Riverbend landfill, addressed the Committee and said Mr. Martin stated no operational changes were necessary in the Metro transfer station system. He inquired whether or not A.C. Trucking and Jack Gray Transport were simply exchanging trailers at the transfer station. Mr. Bradley said assurances had been given by Department Staff that ample notice would be given should there be a change, and said he did not feel a one working day notice to be ample. He noted he might expect such from a competitor but did not expect such from a public agency. He said the result was disheartening.

Chair McFarland felt continued discussion of the matter should be considered and that it might be placed on the next Solid Waste Committee meeting agenda.

Councilor Wyers expressed concern that Waste Management seemed to be in a position to tell Metro what the numbers were regarding the percentages of waste delivered to Columbia Ridge. She perceived the possibility that Metro was responding to the calculations from the company, thus placing Metro in a position to have taken the action just taken, and she asked what Metro's own calculations worked out to.

Chair McFarland requested a report in writing regarding the Department's calculations and asked that the calculations from Columbia Ridge be made available. Mr. Martin said the numbers contained in the monthly

SWIS report were the basis of the calculations. He said the dispute over percentages lay in the question of whether the residual that was disposed of from processing facilities franchised by Metro, such as East County Recycling and Wastech, must be counted as a portion of the base against which the 90% was calculated. He said Waste Management felt that the residual should be part of the base on which the 90% was calculated and said Metro believed the residual should not be included.

Councilor Wyers perceived the possibility that an unending debate over the calculations to Columbia Ridge could occur. Mr. Martin said he believed there could be a dispute if Metro continued as is, and said there would be no dispute with the decision for the action to be taken. He said he would provide a report to the Committee showing the calculations. Chair McFarland reiterated she wished to see those numbers.

Councilor McLain said she had asked Mr. Martin on record at least three or four times whether Waste Management had a legal argument or not, whether Metro could defend their calculations of a percentage or not. Councilor McLain said Mr. Martin had stated that Metro could defend their number and that it was his personal opinion that Metro's number was valid. She asked Mr. Martin if he was now changing that statement. Mr. Martin said he did not recall making predictions as to who would win which arguments. He said he was confident that Metro's position was valid and could be competently defended. He noted Legal Counsel agreed. He said that did not guarantee Metro would win. Councilor McLain said Mr. Martin had used that as justification for Amendment No. 4. Councilor McLain argued that it was not possible for both Metro and Waste Management to be right. She said a narrative was necessary in the memorandum Mr. Martin said he would prepare that would explain why that justification was the best tactic, or were they right and Metro was wrong. Mr. Martin said the best answer was that if Metro continued to send Forest Grove's waste to Columbia Ridge that argument would not come up. He said there would be no disagreement between Metro and Waste Management. He said the argument could come up if Metro ceased to send Forest Grove's waste to Columbia Ridge, however. Councilor McLain asked Mr. Martin if Metro met its 50% recycling goal with more processing facilities on line, was it possible another debate with the same issues could arise. Mr. Martin said it was possible. Councilor McLain requested Mr. Martin address that question. Councilor Wyers concurred. Mr. Martin said Amendment No. 4 guaranteed that dispute would not arise for the years 1991, 1992, and 1993.

Councilor Monroe asked Mr. Carlson to discover what options were available to the Council, if any, at this time regarding this issue. Mr. Carlson said discussion with Outside Legal Counsel Gary had occurred, and said the issues appeared similar in Mr. Gary's mind regarding the line of authority and concurred further discussion with Mr. Gary would be necessary.

The Committee discussed conferring with Outside Legal Counsel further before conclusion on the matter.

Councilor McLain commented she had personally spent at least five hours talking to Legal Counsel and Solid Waste Staff on this issue. She noted receipt of a number of letters from Yamhill County cities, businesses and cities. She said the DEQ meetings were attended by anywhere from 19 to 300 people and that this issue was of concern. Councilor McLain said a policy statement from Solid Waste Staff was necessary indicating how Metro would know if the 90% contract clause was fulfilled. Councilor McLain did not feel the answer was to just increase the amount of garbage to Columbia Ridge to insure the 90%. She said a stepping of this decision, that is, short term possibilities, mid term possibilities, and long term possibilities, all of which insured no disruption to communities and businesses with savings involved. Councilor McLain said she had recently attended a week long conference with the understanding that she would not be missing the report she had asked for, which she said was to be a comparison of the verbal bids from A.C. Trucking and Sanifill. She said Mr. Sadlo had told her on three occasions that Sanifill had the best offer.

Councilor McLain said she was not convinced in her mind where 8.6% of Metro's waste should go, and said she had not been given the opportunity to deal with that in a public discussion. She said it was the Council's responsibility to explain to the public how Metro did business, and that the elected body could not do so with certain Staff members making decisions without any correspondence to Council or to Mr. Martin so that he could pass them on.

Councilor McLain said when she left June 18th there was no way she believed that when she got back there would have been a decision on where that Forest Grove waste was to go. She said it was not good business to give one day's notice to people who would be impacted by such a decision. Councilor McLain noted other communities were involved through 2040 with Metro from outside the Metro region such as Newberg, Sandy, Canby, McMinnville, and Scappoose. She said those communities were beginning to trust Metro. She said she had received five calls from those communities when she returned asking if this was what they were to expect.

Councilor McLain requested Council Staff provide a list of options for the body as a Council as to what could be done. She said when public dollars were involved, even when considered enterprise revenue, the Council needed to be informed in order to oversee that public dollar. She said if the Council was not informed, they could not support or explain Staff. Councilor McLain noted Gilliam County benefited from the waste that was going to Columbia Ridge. She recalled testimony from the City of Cornelius that they wanted to know what the impact of trucking the waste through their city would be.

Councilor McLain reiterated a list was necessary to outline what the Council could do when the Executive brought forward bad business. She said Metro should do business fairly, with equity and with plenty of notification to people who were involved in this community. Councilor McLain said if one were to attend a Future Vision meeting, it would be clear that community ran from Salem to Vancouver, B.C. with the same air shed, the same water sheds, and she felt everyone had to work together to make it work.

Mr. Martin said it had been suggested Metro told Sanifill they had given an excellent proposal. He said in fact that was true which he told both Sanifill and A.C. Trucking. Mr. Martin said he had informed the Committee that two very excellent proposals had been received which would be weighed. Mr. Martin said he did not recall ever telling Sanifill that he thought their proposal was the best. He said he could not speak to whether someone else told them that. Mr. Martin said it had been suggested that Metro's consideration of the two proposals between May 12, 1994 and June 23, 1994 had been done precipitously. He said it was significant that the Metro Council elected to file a lawsuit against the Executive over contract authority between May 12, 1994 and June 23, 1994. Mr. Martin said that was a major consideration in looking at the Sanifill proposal, which would have required a new agreement with a new entity and be subject to Council review and proposal. Mr. Martin believed that the Executive recognized that would be time taking and potential savings might not be realized, and felt that had factored into her decision to make an arrangement with A.C. Trucking in a way which would not preclude other proposals from being given in the interim.

Mr. Martin said it had been suggested that Metro did not require or did not wish to see the Sanifill proposal in writing. Mr. Martin said he did not remember it that way. He said he did remember a discussion of whether it was necessary at May 12th to put that proposal in writing, and said he recalled saying at that point he just wanted to know what the proposal was. Mr. Martin said it would be assumed that at some point it would need to be seen in writing. He said he did remember being sensitive to the notion that a lot of the sensitive discussions in Yamhill County were occurring and that it might be difficult to be precisely write what the offer was. He said he did not need it in writing at that point, and said he understood putting it in writing might be difficult at that point for the Sanifill people.

Mr. Martin recalled telling Sanifill when their proposal was reviewed that it was his hope a decision would be made within a matter of a couple of weeks. He said the fact that the decision was not made that soon was owing to the fact that both proposals under review had both advantages and disadvantages. He said he had trouble with the notion that no one expected Metro to make a decision this early or this rapidly. He said he had expressed often his hope that he would be able to make any recommendation to the Executive much sooner than actually occurred.

Chair McFarland recessed the meeting at 6:40 p.m.

Chair McFarland reconvened the meeting at 6:55 p.m.

7. Staff Presentation Concerning the Operations Contracts at Metro Central and Metro South

Mr. Martin referenced and discussed his memorandums, both dated June 14, 1994, containing staff reports for the Transfer Stations Operations Contracts. These memorandums were contained in the record produced for this meeting in the agenda packet and have been filed. He said the contract for Metro South was slated to expire at the end of the current calendar year, noting that the contract provided for Metro's ability to extend it up to an additional two and half years which could be done by resolution action by the Council. He noted the Executive retained the ability to extend it for 90 day intervals at a time if necessary in order to provide time for bid documents, for instance, if necessary.

Mr. Martin said the Metro Central contract was a five year contract slated to expire in October 1996. He noted as a condition of the bonds Metro had the ability to terminate that contract at any time after the first three years, or any time after October 1994. He said the Department had reviewed exercising options such as terminating Metro Central this year or extend Metro South, and reviewed costs of facilities operations for both facilities. He noted the cost of operating Metro South was very low, and said the price for operating Metro Central was fairly high. He noted a premium price was paid for management of the facility as well as the put or pay provisions. He said review had occurred with both operators of both facilities regarding the possibilities. He said the data was summarized in the report into three options: 1) rebid both contracts separately at the earliest opportunity; 2) rebid both contracts as a package at the earliest opportunity; or, 3) renegotiate Metro Central prices, extend Metro South until October 1995, and then rebid both. Mr. Martin said discussions had been opened with the operator of Metro Central with the end in view of reducing overall cost of transporting waste and eliminating the put or pay provision which would positively impact the objection to that facility being under utilized. He said the recommendation made would not be viable if he thought the put or pay provisions would have to remain in effect for another two years. He said his goal to have terms arranged on a per ton basis would be realized and an opportunity to rebid both facilities together in a bid package he felt would be powerful, and no later than 1996.

Mr. Martin said based on the Department's analysis it was recommended to continue the current operations contract until October 1996 as the analysis of probable outcomes indicated the results would be lowest in cost to Metro. He said a resolution from Council to extend the Metro South contract would be necessary, and said a contract revision would be brought forth regarding the Metro Central facility for review as well. Chair McFarland clarified that such a contract revision would not contain the put or pay provision. Mr. Martin concurred. He added if Metro could not continue the Metro Central contract at a savings his recommendation could be very different.

In response to Councilor McLain, Mr. Martin said he believed there were customers for the product from the pelletizer, but noted he was not aware of specific contracts in place.

In response to Councilor Wyers, Mr. Martin said he discussions were preliminary in nature. He believed the operation at Metro South could be extended under the current terms of that contract noting the price was favorable. He said discussions with Metro Central regarding eliminating the put or pay provision and maintenance had occurred, and he believed savings of about \$2 per ton were possible. He said details would require further work before any contract amendments were presented to the Committee, but he said the parties operating the transfer stations agreed in concept at this point.

In response to Councilor Wyers, Mr. Martin said he was confident the operator of Metro Central did not wish to terminate immediately and that the operator of Metro South wished to extend their contracts. Councilor Wyers expressed concern regarding fairness. Mr. Martin noted it was a condition of the bonds involved that Metro must retain the right to terminate the contract.

Mr. Carlson commented that the Solid Waste Director was apparently bringing forth a policy issue, and inquired as to what mechanism the Committee would care to utilize to raise the matter to the Council level. Chair McFarland said a resolution would be in order. Mr. Carlson noted the Metro Central issue involved a five year

contract with an option to terminate at three years with a suggestion from the Solid Waste Director that the contract would be renegotiated into mutually advantageous terms. Councilor Wyers indicated the matter seemed to be in the same arena as the dispute over the OWS contract amendment and suggested discussion with Council's outside legal counsel would be in order. Chair McFarland noted it involved modification of an existing contract and concurred with Councilor Wyers. Councilor Wyers suggested the Council would need to have some indication from the attorneys for the operator as well.

Councilor McLain noted a draft ordinance for a code change written by Dan Cooper, Legal Counsel, addressing these amendments and amendment changes was in preparation. She suggested review of the current issue by Mr. Cooper as related to the draft ordinance was in order. Councilor McLain believed there were issues the Council was in position to address as a body and felt not everything had to be decided in a court case. Mr. Carlson agreed. He did not believe there was a dispute over this issue and suggested a means be undertaken to bring the matter forward to the Council for consideration and deliberation. Mr. Martin agreed. He said discussion with the Executive was neutral whether to accept his recommendation, and said implementing another method than his recommendation would likely be feasible, should the Council decide to do so. He said his objective was to present the information, give the Committee time to analyze the information followed by direction to Staff. He said if the Committee was interested in hearing more about his recommendation, he would see to preparing the resolution necessary to extend Metro South, continue negotiations on the Metro Central contract, and bring the result of those negotiations to the Committee for review of potential savings, and whether or not they would be sufficient to justify the recommendation followed by implementation of the Council's recommendation.

Mr. Martin clarified that before rebidding Metro South or Metro Central, the bid documents would come to the Committee for review prior to advertising and that the results would also come to the Committee for review prior to award. Mr. Martin said should the Council wish to terminate Metro Central earlier than the five years, he believed adoption of an ordinance stating a date for termination would accomplish that. He said should the Council not wish to extend the contract with Metro South nothing would need to occur, as extension could not occur without authorization.

Councilor Wyers said the only dispute existent was whether or not the Executive had the power to execute a contract amendment without the approval of the Metro Council. She said the Metro Council wanted to approve the amendment for Metro Central, and said if there was a dispute over that it would need to be decided at the court level.

Mr. Martin said he would advocate bringing that amendment back to the Council for adoption, noting that was without raising the question of whether he was required or not required to do that. He said that it was what he would recommend and what he would anticipate doing. He said he would review that with the Executive and it would be her decision. He reiterated the Department did not have a strong opinion one way or the other, and said if the Council wished to have the contract extended, it would be extended, and if the Council wished to have it rebid, it would be rebid.

Councilor Wyers agreed a resolution for Metro South should occur. Councilor Wyers asked Mr. Martin if the Metro Central contract decision would come before the Council as well. Mr. Martin said it was his intention to bring that to the Council. Councilor Wyers asked did he mean in a resolution form that the Council would review and approve. Mr. Martin said yes.

Councilor McLain said it would be helpful in order that business as Metro be done appropriately that if Mr. Martin could say, if the Executive disagreed with him, he would inform the Council of that disagreement. Councilor McLain requested Department Staff inform Council Staff or the Council should the Executive Officer decide not to refer the matter to the Council. She said her concern was that Mr. Martin keep the Council as well as informed as he did the Executive. She said if the Executive disagreed with Mr. Martin regarding bringing back that amendment or anything else he would be giving the Committee information, would he give the courtesy of letting the Council Staff or the Council Committee that would be involved in that decision know immediately that there was a disagreement and that his word could not be kept. Chair McFarland clarified that if the Executive

Council Solid Waste Committee

July 5, 1994

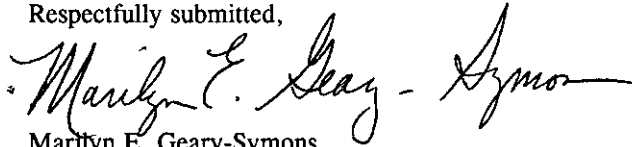
Page 11

disagreed that the Council get the resolution on Metro Central that Mr. Martin would let the Council know immediately.

Mr. Martin agreed he would pass that on to the Executive, and said she was aware of that concern. He said he believed the Council would be informed. He said he could not tell the Committee what the Executive was going to tell him in advance, and said he would do so with the Executive's permission.

There being no further business, the meeting adjourned at 7:39 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Marilyn E. Geary-Symons". The signature is written in black ink and is positioned above the typed name.

Marilyn E. Geary-Symons
Committee Recorder