

APPROVED

Date 10-18-94

MINUTES OF THE METRO COUNCIL SOLID WASTE COMMITTEE

September 13,, 1994

Council Chamber

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

Committee Members Absent: Judy Wyers

1. Consideration of August 16, 1994 Solid Waste Committee Meeting Minutes

Motion: Councilor Hansen moved to approve the August 16, 1994 Solid Waste Committee meeting minutes as submitted.

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

2. Solid Waste Updates

- General Staff Reports

Department Staff presented no updates.

3. Update on the Status of the Revision of the Solid Waste Management Plan

Terry Petersen, Planning and Technical Services Manager, presented several recommendations made regarding revising the Regional Solid Waste Management Plan (RSWMP) by the Solid Waste Advisory Committee (SWAC) were to: 1) take a more integrated approach; 2) give sufficient time for the work; and, 3) make the plan more readable and concise in content. He outlined a schedule that included bringing back revisions for review by the end of the current year.

Councilor McLain supported the concepts advocated by the SWAC and Staff.

In response to Chair McFarland, Mr. Petersen said the original intent was to update topically as needed, but he agreed that a thorough five year review would be beneficial.

4. Ordinance No. 94-567, For The Purpose of Granting a Franchise to Willamette Resources Inc. For the Purpose of Operating a Solid Waste Processing Facility

Roosevelt Carter, Budget and Finance Manager, Solid Waste Department, presented the staff report, and said the proposed facility would accept material from United Disposal Service, Inc. and from Keller Dropbox. He said the franchisee would provide service to outside commercial refuse haulers and contractors, but it was expected that would be a minor element of the operation.

Mr. Carter discussed the variances requested by WRI as outlined in the staff report and the policy implications thereof.

Chair McFarland expressed concern regarding the issues of policy decision making that were involved. She noted that when variances were granted they tended to become policy. She advocated for thorough discussion of the matter, and felt the matter should be dealt with as a policy issue to be decided by the policy making body, the Council. She said then the matter would be policy for everybody, rather than a variance for this party or that party.

Chair McFarland opened a public hearing.

Merle Irvine, Vice President, WRI, supported passage of the proposed ordinance, and referenced Resolution No. 1914A, which he said dealt with diversion requirements. He noted the majority of processing facilities were located in North Portland, and felt the establishment of this facility would provide an opportunity in the south region for material recovery processing. He noted the variance requested would allow other haulers access to that facility, and said although he anticipated the material to amount to not more than 5% of the total amount of material process, the ability to have that opportunity would be a benefit for the haulers as well as help the economic viability of the facility. He said the facility would serve Washington and Clackamas counties. Mr. Irvine referenced a memorandum dated September 13, 1994 from a number of haulers and recycling companies supported passage of the proposed ordinance. This document was distributed to the Committee and has been made part of the permanent meeting record.

Chair McFarland closed the public hearing.

Chair McFarland indicated she was reluctant to act on the proposed ordinance at this time because of the policy implications.

Councilor McLain supported the proposed franchise, and said the facility would be located in an appropriate area. Councilor McLain said she understood as a result of the discussion thus far that the Committee could look forward to a franchise code review to be brought forward in the near future.

Councilor Hansen asked if the franchise approval and the rate variance issues could be separated. She referenced a paragraph on page 7 of the Staff Report regarding uniformity of rates in which language stated, "The franchise provides that WRI shall establish criteria for equal application of rates subject to Metro approval, and that approval shall not be unreasonably withheld." She asked if approval of the franchise constituted approval in advance of the rate structure.

Chair McFarland noted the basic aspect of the variance dealt with the number of people that could bring their material to the facility.

Mr. Irvine said the site in question had been secured in 1989 potentially for a transfer station. He said when the decision was made not to proceed with the transfer station, it became necessary to make other determinations for that property, thus this request for franchise. He said the application was submitted in May, 1994, and the goal was to begin construction as soon as possible, noting the longer the delay, the greater the costs incurred against the project, adding costs to the system in general. Mr. Irvine understood two variances were at issue - one, to be exempted from the rate setting process due to the nature of the facility, and, two, a variance on receiving other haulers in order to provide a level of service not otherwise available in the south portion of the region. He supported changes in the Metro Code regarding the prohibition on vertical integration.

Councilor Hansen commented she did not how the agency could turn down a request for a franchise that was in compliance with established agency policy.

Phil North, Senior Solid Waste Planner, commented regarding the difference between a rate variance and exemption from user fees.

Chair McFarland noted the facility was different in that it would receive only materials that were for the most part recyclable. In response to Councilor Buchanan, Mr. Irvine said that although Metro's recovery rate projection was 45%, he believed the facility would have a recovery rate of higher than 45%, noting the franchise contained severe financial penalties if the goal of 45% was not achieved. He expressed concern that processing of some loads would be discouraged the way the language was currently written, and said he had suggested to Staff that the penalty section be subject to continued review.

Councilor McLain supported Chair McFarland's concerns regarding Code review of the Code.

Chair McFarland commented that changes made in policy now would be effective for years to come should they remain in place.

Motion: Councilor Buchanan moved to recommend Ordinance No. 94-567 to the full Council for adoption.

Vote: Councilors Hansen, McLain, Monroe and Buchanan voted aye. Councilor McFarland voted no. Councilor Wyers was absent.

The motion passed.

5. Resolution No. 94-2003. For The Purpose of Authorizing An Exemption to the Requirement of Competitive Bidding Pursuant to Metro Code 2.04.041, and Authorizing the Executive Officer to Extend The Current Operations Contract For Metro South Station To No Later Than October 1, 1996
6. Resolution No. 94-2019. For The Purpose of Authorizing An Exemption to the Requirement of a Competitive Process For The Sale of Equipment at Metro Central Station and Authorizing the Executive Officer to Execute Change Order No. 15 to the Current Operations Contract for Metro Central Station (Action Requested: Motion to Recommend Council Adoption)

James Watkins, Engineering and Analysis Manager, and Chuck Geyer, Senior Solid Waste Planner, presented the staff report. Mr. Watkins suggested both Resolution No. 94-2003 and 94-2019 be discussed concurrently. Chair McFarland agreed, noting they would be voted on separately.

Mr. Watkins noted the Committee referenced both a memorandum and a discussion paper dated June 14, 1994 from Bob Martin, Director of the Solid Waste Department, to the Committee which were printed in the agenda packet for this meeting. He described three options examined in the memorandum: 1) rebid both contracts for Metro South and Metro Central transfer stations separately at the earliest opportunity; 2) rebid both contracts as a package at earliest opportunity; and 3) renegotiate MCS prices, extend MSS until October 1996, then rebid both. Mr. Watkins indicated that based on staff analysis, the recommendation was that the current operations contract be continued until October, 1996, at which time Metro would rebid the contracts as a package as proposed by the resolutions.

Mr. Watkins and Geyer presented a graphic display demonstrating potential annual savings from Change Order No. 15. A hard copy of the material presented has been placed in the permanent meeting record. Mr. Watkins referenced Attachment No. 1, Change Order No. 15, Metro Contract No. 901584, Modification to the Contract Between Metro and Trans Industries. This document has been made part of the permanent meeting record. Mr. Watkins explained the language deletions and replacements contained in the proposed change order as contained in the referenced document.

Todd Sadlo, Senior Assistant Counsel, stated that Metro's Bond Counsel, including Edward D. Einowski and Stephen Brier, both of Stoel Rives Boley Jones & Grey had given advice regarding the contract and the amendment. He said language in the change order was included to address their concerns. He said the two sets of changes recommended, and distributed a document containing the recommendations. This document has been made a part of the permanent meeting record. He discussed the view of the IRS regarding the tax exempt status of the bonds involved was linked to the degree to which the private operator derived benefit from a public facility.

The Committee and staff discussed the matter further.

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Motion: Councilor McLain moved to recommend Resolution No. 94-2003 to the full Council for adoption.

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

The vote was unanimous and the motion passed.

Motion: Councilor Hansen moved to recommend Resolution No. 94-2019 to the full Council for adoption.

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

There being no further business, the meeting adjourned at 6:00 p.m.

Respectfully submitted,



Marilyn E. Geary-Symons
Committee Recorder

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