

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

October 1, 1991

Council Chamber

Committee Members Present: Judy Wyers (Chair), Ruth McFarland (Vice
Chair), Tom DeJardin, Jim Gardner

Councilors Also Present: David Knowles, Roger Buchanan

Committee Members Absent: Susan McLain

Chair Wyers called the regular meeting to order at 5:30 p.m.

1. Consideration of August 20, 1991 Solid Waste Committee Meeting Minutes

Motion: Councilor DeJardin moved to approve the August 20, 1991 Solid Waste Committee meeting minutes as written.

Vote: Councilors DeJardin, Gardner, McFarland and Wyers voted aye.

The vote was unanimous and the motion passed.

2. Solid Waste Updates

o General Staff Reports

In response to an inquiry from Chair Wyers, Mr. Martin said it was not true that sewage sludge was being disposed of at the landfill at a reduced rate to the city. Chair Wyers said included in the report was information that the material had come from Precision Cast Parts and was radioactive, and said the reporting constituent wished to know if the sewage sludge had been tested to be hazardous.

Mr. Martin said Metro had in the past accepted composted sludge on a case by case basis from the sewage treatment plant, some which contained materials from Precision Cast Parts. He said questionable materials had been reviewed and tested thoroughly with the State Health Department, Metro employees and their union, with the Metro Safety Committee prior to acceptance, and said it was established to be free of health or safety concerns for both employees and the environment.

3. Ordinance No. 91-429A, For the Purpose of Amending Metro Code Chapter 5.06 to Allow for Committee Member Reappointment, Staggered Terms, and Establishing Committee Membership Date Effective as of Confirmation

John Houser, Council Analyst, reference the Ordinance No. 91-429A noting an emergency clause had been added to the ordinance, which would set the effective date of the appointments to the committee upon confirmation. He

(Continued)

said both could be considered on October 10, 1991 and both would then go into effect simultaneously.

Judith Mandt, Administrative Manager, Solid Waste Department, presented the staff report, and said the recommendation was the ordinance be amended to permit terms of office to commence on the date of confirmation by the full Council.

Councilor Gardner raised the question of language in the ordinance which could limit an appointee to two terms.

Chair Wyers indicated Councilor Buchanan's concern the mission of the Composter Enhancement Committee was perceived as one of trying to convince the neighborhood to learn to live with the composter in some of its negative aspects. She said as chair she wished to give opportunity for people to speak on the issue.

Councilor Knowles said the charge enacted by the Council to the Composter Enhancement Committee was to consider projects for funding under the Community Enhancement Program. He said specific criteria had to be followed and the function of the committee was limited, and said as Chair of the committee he would not allow the committee to receive testimony regarding the composter, noting other community efforts continued in that regard.

Chair Wyers opened a public hearing.

Si Stanich, a resident of the Cully Neighborhood, 5437 N.E. Jessup, testified before the Committee, and said he approved of beginning with at least a two year or three term, and thereafter serve two years. Mr. Stanich expressed his desire the committee go forward in an expeditious manner.

Chair Wyers closed the public hearing.

Councilor McFarland introduced amended language for Ordinance No. 91-429A, which would amend Metro Code Section 5.06.040, Composter Community Enhancement Committee, subsection (c) to read:

"(c) The effective date for all appointments of all members except the Metro Councilors shall be date of membership confirmation by the Metro Council. The initial terms of service for [~~one~~] three years and four members for two years, designation to be determined by lot. Committee members may be reappointed for consecutive terms not to exceed two full terms."

Motion As Amended: Councilor McFarland moved to recommend Ordinance No. 91-429A as amended to the full Council for adoption.

Vote on Motion as Amended: Councilors DeJardin, Gardner, McFarland and Wyers voted aye.

The vote was unanimous and the motion passed. Ordinance No. 91-429B was recommended to the full Council.

4. Resolution No. 91-1499, For the Purpose of Confirming the Appointment of Persons to the Composter Community Enhancement Committee

Ms. Mandt presented the staff report, and noted citizens were present who might want to testify, and said she was available to answer questions as needed.

Chair Wyers opened a public hearing. She noted Si Stanich had previously made comments pertinent to the resolution before the committee. Chair Wyers closed the public hearing.

Motion: Councilor DeJardin moved to recommend Resolution No. 91-1499 to the full Council for adoption.

Vote: Councilors DeJardin, Gardner, McFarland and Wyers voted aye.

The vote was unanimous and the motion passed.

Councilor Gardner requested clarification regarding whether a unanimous vote was required at the full Council for a resolution or ordinance containing an emergency clause.

Mr. Sadlo said Resolution No. 91-1499 did not contain the type of emergency clause that required more than a simple majority vote at the full Council, and also raised the question whether Resolution No. 91-1499 should be conformed to parallel Ordinance No. 91-429B.

Motion to Reconsider: Councilor DeJardin moved to reconsider Resolution No. 91-1499.

Vote on Motion to Reconsider: Councilors DeJardin, Gardner, McFarland and Wyers voted aye.

The vote was unanimous and the motion passed.

Councilor McFarland introduced amended language to Resolution No. 91-1499, to read under "BE IT RESOLVED," page 2, section 2:

- "2. That the committee membership and term of service shall be for a period of [~~one~~] three years or two years, to be determined by lot with potential for reappointment for one additional term."

Motion to Amend: Councilor McFarland moved to amend Resolution No. 91-1499.

Vote on Motion to Amend: Councilors DeJardin, Gardner, McFarland and Wyers voted aye.

The vote was unanimous and the motion passed.

Main Motion as Amended: Councilor DeJardin moved to recommend Resolution No. 91-1499A to the full Council for adoption.

Vote on Main Motion as Amended: Councilors DeJardin, Gardner, McFarland and Wyers voted aye.

The vote was unanimous and the motion passed.

Chair Wyers noted Councilor Van Bergen, Finance Committee Chair, had asked, at the time of hearing the R.W. Beck contract, for an in depth discussion about the composter, not as it pertained to odor, but as it pertained to Metro's role should the composter be unable to produce an adequate product and go into default.

Mr. Houser said Council staff had received a response from Legal Counsel to three questions regarding Metro's obligations concerning repayment of bonds or assuming responsibility for operation of the facility which he would distribute to Committee members. He said follow up could occur as a briefing by the department and/or General Counsel.

5. Washington County Regional Solid Waste Management Plan Chapter and Procurement Documents

A. Ordinance No. 91-416, For the Purpose of Amending Ordinance No. 88-266B Adopting the Regional Solid Waste Management Plan (RSWMP) to Incorporate the Metro West Transfer and Material Recovery System Chapter

Rich Carson, Planning and Development Director, presented the staff report, and said the ordinance would add a new chapter to the RSWMP which would fill the need for expanded transfer and material recovery capabilities in the west watershed. He said the chapter was the result of three years work and was consistent with the Council adopted planning process, with RSWMP, and was based on the approved policy and technical analysis. He said the chapter had been reviewed and recommended by Washington County Steering Committee, Metro Solid Waste Technical Committee, Solid Waste Policy Committee and the Executive Officer, and said the procurement documents were ready.

Chair Wyers referenced Mr. Houser's memorandum dated July 25, 1991, and Becky Crockett, Regional Planning Supervisor, addressed questions from the

memorandum. She referred to question #4 pertaining to self-haul, and said the technical analysis had examined the cost of providing self-haul seven days per week for two transfer stations in Washington County. She said two tenths of one percent of the putrescible waste stream in the region would be served, and said the department concluded the additional service was not justified from a cost standpoint. She said study proved self haulers were the biggest contributors to illegal dumping and highway litter, and said provision for self-hauling was recommended to be limited to weekends. She also noted that they Hillsboro Landfill would be available to self-haulers on weekdays. She said savings estimates based on 20 year projections was \$2.4 million.

Ms. Crockett referred to question #6, and said the 16% projected material recovery recycling rate possible in the west watershed would be an average over a 20 year span. Ms. Crockett explained the process used to determine material recovery rates at Metro Central could be used for the Washington County facilities because it involved assessing a broad spectrum of factors including markets, feasibility, and cost avoidance.

The Committee and staff discussed what would happen to the facilities at the end of the initial franchise period, and whether the issue should be addressed in the RSWMP chapter or the procurement documents, and how financing would be affected by the language. Councilor McFarland indicated the public has an interest in the facilities noting revenue could come from bonds issued by Metro. Chair Wyers indicated a desire to insert language that the issue would be revisited. Councilor Gardner contended a clear statement that at the end of 20 years ownership would or would not revert to Metro should be made, and said it should be in the signed franchise agreement contract. Councilor DeJardin raised the issue that Metro would want to assure the system was in place but not necessarily own the facility. Councilor McFarland noted all options should be kept open, and said it was hard to predict the situation 20 years away. Mr. Sadlo said the franchise would need to be approved prior to issuance and could be revisited when it came back for approval. Councilor Gardner summarized and said although the Committee could not wait five years to make a decision, said it could wait until an operating agreement and the franchise with the selected vendor had been negotiated, which he said would occur in the next two or three months. Chair Wyers requested Mr. Sadlo frame language for the RFP to reflect the intent of the Committee.

Chair Wyers opened a public hearing.

Delyn Kies, Solid Waste Management Coordinator for Washington County, representing the Washington County Steering Committee, testified before the Committee and said the Steering Committee reviewed the RSWMP plan chapter at their meeting July 1, 1991. She said the committee recommended approval of the plan chapter as well as subsequent amendments made at the policy and technical committees, and said they found it consistent with the local plan to provide transfer and material recovery services in Washington County,

that it met the objectives of the resolution the Committee passed in June, and encouraged the Committee to recommend the full Council to adopt the plan chapter to the RSWMP. Ms. Kies distributed hard copy of her comments to the Committee, and they have been made a part of the permanent meeting record.

Chair Wyers closed the public hearing.

Motion: Councilor DeJardin moved to recommend Ordinance No. 91-416 to the full Council for adoption.

Councilor Gardner gave an explanation of his intent to vote nay, and said he felt the most cost effective and best approach in Washington would have been one publicly-owned, moderately-sized transfer station. He said he could not support the plan chapter that implements the decision made several months ago which was contrary to his opinion. He said he realized he was in the minority on the Committee and in the Council, and he said he would vote according to his conviction.

Vote: Councilors DeJardin, McFarland and Wyers voted aye. Councilor Gardner voted nay.

The motion passed.

- B. Resolution No. 91-1512, For the Purpose of Authorizing an Exemption to the Requirement of Competitive Bidding for Issuance of a Request for Franchise (RFF) Applications for the Provision of Transfer and Material Recovery Facilities and Services for Western Washington County
- C. Resolution No. 91-1513, For the Purpose of Authorizing Issuance of a Request for Franchise Applications for the Provision of Transfer and Material Recovery Services for Western Washington County

Solid Waste Engineering & Analysis Manager James Watkins and Senior Solid Waste Planner Chuck Geyer presented the staff report. Mr. Watkins said the plan chapter for the Metro West transfer and material recovery system recommended long term franchises be issued for facilities established in Washington County and was consistent with the application process and award of major disposal system component franchise under section 5.01.085 of the Metro Code. He noted the RFF before the Committee met the franchise code requirements, and said facility requirements in the RFF included limiting of public self-haul waste disposal to weekends, provided for public drop-off for source-separated recyclables prior to weighing, and provided post-collection material recovery of waste received utilizing proven technology and methods. He discussed financing options, future financing as provided for in the RFF, and franchising evaluation criteria as outlined in the staff report in the agenda packet. He noted Metro was scheduled to issue the RFF in October 1991, award the franchise in early 1992, and said

COUNCIL SOLID WASTE COMMITTEE

October 1, 1991

Page 7

construction should be completed by the end of 1993. He noted procurement for the eastern Washington County facility would begin in early 1992 using a similar process.

He referred to Metro Code Section 2.04.041(c) as Metro justification for using the RFF process, and said Resolution No. 91-1512 would exempt the selection process from the competitive bidding process, and said Resolution No. 91-1513 would authorize staff to issue the RFF. He noted no immediate budget impacts as immediate costs would be reimbursed by potential bonds. He noted long term impacts would be unknown until negotiations were completed. He said the Washington County Technical Analysis estimated capital and operating costs for the facility at approximately \$10.3 million and \$1.7 million per year respectively.

Mr. Geyer referenced the errata sheet dated September 1991 which the Committee accepted as presented.

In response to Councilor McFarland, Mr. Geyer indicated the length of the long term franchise referred to was the same length as payment of the bond, that is 20 years.

Mr. Watkins said in the technical analysis a rate was developed for a publicly owned facility, and said new flow assumptions proposed in the RFF and current interest rates would be provided to PFM, along with cost information from the applicant, for rate analysis. He said their rate model would be compared with a publicly owned facility.

Mr. Martin demonstrated and discussed boundaries, service areas and tonnage with the use of a map. In response to Chair Wyers, Mr. Martin said boundaries were generally acceptable. In response to Councilor McFarland, Mr. Martin said more waste was projected from the whole area of the west watershed, and said projections were sound for approximately three years. He said the intent was to be flexible in flow management according to needs throughout the region.

Motion: Councilor DeJardin moved to recommend Resolution No. 91-1512 to the full Council for adoption.

In response to Councilor Gardner, Mr. Watkins said evaluation would be on a technologically simple approach in equipment for the facility and said the department was not looking for high-tech unproven equipment. He said adaptability of the initial equipment along with available floor-space should technology and/or waste stream changes occur would be a factor.

Vote: Councilors DeJardin, Gardner, McFarland and Wyers voted aye.

The vote was unanimous and the motion passed.

Motion as Amended: Councilor DeJardin moved to recommend Resolution No. 91-1513A with corrections as indicated on the errata sheet to the full Council for adoption.

Vote: Councilors DeJardin, Gardner, McFarland and Wyers voted aye.

The vote was unanimous and the motion passed.

6. Ordinance No. 91-406A, For the Purpose of Amending Ordinance No. 88-166B Adopting the Regional Solid Waste Management Plan to Incorporate the Illegal Dumping Chapter

Ms. Crockett referenced two copies, one, a clean version of 91-406A and one, the engrossed copy, which she said were in the agenda packet.

Chair Wyers opened a public hearing.

Ken Spegle, representing Clackamas County Solid Waste Office, 902 Abernathy Road in Oregon City, and said Clackamas County had served on the Illegal Dumping sub-committee and supported the chapter. He said the chapter offered tools for local government to deal with the issue of illegal dumping, and urged the Committee to recommend the ordinance to the full Council for adoption.

Robert Tracktenberg, attorney and staff assistant to Multnomah County Commissioner Sharon Kelly, said they had been working with the Illegal Dumping Task Force. He spoke in behalf of Commissioner Kelly in support of the adoption of the chapter noting revisions had been made subsequent to the Committee first hearing.

Ms. Crockett presented two letters of testimony to enter into the record, one from the Port of Portland and one from the City of Portland. These letters have been made a part of the permanent meeting record.

Chair Wyers closed the public hearing.

Motion: Councilor McFarland moved to recommend Ordinance No. 91-406A to the full Council for adoption.

Chair Wyers commended the work done by the Task Force and approved of the revisions made. She indicated funds would be necessary for public education and she would be looking forward to budget items in that regard.

Vote: Councilors DeJardin, Gardner, McFarland and Wyers voted aye.

The vote was unanimous and the motion passed.

7. Resolution No. 91-1510, For the Purpose of Authorizing an Exemption to the Competitive Procurement Procedures of Metro Code Chapter 2.04.053, and Authorizing a Change Order to the Design Services Agreement with Parametrix, Inc.

Mr. Watkins presented the staff report, and said the design concept had been changed at the St. Johns Landfill instead of having one contractor close the landfill, requiring additional efforts by Parametrix. He said Parametrix estimate of technical assistance was estimated at \$47,000 and bidding assistance at approximately \$10,000.

Motion: Councilor Gardner moved to recommend Resolution No. 91-1510 to the full Council for adoption.

Vote: Councilors Gardner, McFarland and Wyers voted aye.

The vote was unanimous and the motion passed.

8. Ordinance No. 91-422, For the Purpose of Amending the Metro Code to Clarify and Supplement Existing Provisions Related to the Management of Petroleum Contaminated Soils (PCS), and Declaring an Emergency

Mr. Martin presented the staff report, and recommended the Committee pass the original version of Ordinance No. 91-422. He commented that neither version "A" nor version "B" accomplished what the department intended in the original ordinance. He said the department had done a region wide survey with regard to PCS, and found approximately one third was being sent to landfill, about one third was being spread around on various sites for aeration with possible exposure to waterways and other potential impacts, and said it was undiscovered as to where the remaining third was going. He said PCS should be treated as solid waste under Metro and DEQ regulatory authority, and said land use approval would come from the jurisdiction in which a facility would be proposed.

He said a Metro licensing process was recommended, said licenses would be administratively issued subject to Council review, and said the original ordinance created such a licensing program. He said version "A" would make the issuance of licenses a legislative or Council action. He said the "B" version would add PCS to the original franchise code. He said the entities seeking PCS licensing from Metro had obtained, or were about to obtain, DEQ and land use permits and were prepared to conduct business. He said at this point policy issues had been covered and the administrative process could run its course. He said contrary to what some would argue it was not the intent of the department to circumvent the legislative process, but rather fulfill the policies which have been established by the Council administratively. He said it was true a new entity was being created by the ordinance since the Solid Waste Department had not licensed previously, but said flow control "directed use orders" were similar. He noted the Metro franchise code resulted in what he termed "quasi-licenses." He asked

the question what was the policy guidance that determined what Metro was licensing, franchising or contracting for. He recommended going forward with the single issue of PCS and development of a structure for licensing/franchising/contracting which outlined policy foundation for those decisions, and urged the Committee to give their consideration to the original version of the ordinance.

In response to Councilor McFarland, Mr. Martin agreed the franchise code should be reviewed. Councilor McFarland commented she felt if the process were going to undergo review the matter before the Committee should be set aside for consideration after the fact.

In response to Chair Wyers, Mr. Carson said a chapter of the plan dealing with the franchising issue was scheduled for consideration at a later date in the fiscal year, but said he supported Mr. Martin's view that the PCS issue should be dealt with at this time.

Councilor McFarland said she had questions regarding the differences between licensing and franchising as pertaining to policy setting.

Mr. Martin said the issue of whether PCS applicants should be made exclusively franchises or licenses was a policy issue. He noted that the three current applicants could be dealt with prior to resolving the issue. He said another issue was resolved in which processors were exempt from paying the user fee under the existing code, and noted the original version of the ordinance adhered to that policy.

Chair Wyers said the two issues before the Committee were: 1) did Metro want to add a new level of licensing; and 2) did Metro want to treat PCS in that vehicle. She said she wanted to deal with PCS under the current franchise code and study licensing as a possibility as a separate issue. She recommended the Committee pass out the "B" version, which she said accomplished that end.

Mr. Martin said questions had been raised regarding what would be required or decided at the Council level in addition once required permitting had been obtained.

Councilor Gardner said it was difficult to understand the difference between a licensing process, other than that it would be administrative and would not come to the Council, and a franchise process. He indicated he agreed with Councilor McFarland, and said since the franchise code was coming up for review and study, he felt it complicated the situation to introduce a new approval process at this time.

Motion: Councilor McFarland moved to recommend Ordinance No. 91-422B to the full Council for adoption.

COUNCIL SOLID WASTE COMMITTEE
October 1, 1991
Page 11

Mr. Martin commented all decisions and actions needed to be consistent with the plan, and said the original version was a straightforward effort by the department to deal with PCS at this time. In response to Councilor Gardner, Mr. Martin said the need for the facilities was well established and the volume of applicants did not exceed the need. Councilor Gardner questioned whether or not that would change; Mr. Martin felt it would not change.


Councilor Gardner expressed interest in reviewing the franchise code as soon as possible with the intent to bring forward a new code that would make a clear distinction between administrative and non-administrative approvals.

Vote: Councilors Gardner, McFarland and Wyers voted aye.

The vote was unanimous and the motion passed.

There being no further business, the meeting adjourned at 7:30 p.m.

Respectfully submitted,


Marilyn Geary-Symons
Committee Clerk