

APPROVED

Date 3-12-93

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

November 3, 1992

Council Chamber

Committee Members Present: Judy Wyers (Chair), Roger Buchanan, Sandi Hansen, George Van Bergen

Committee Members Excused: Ruth McFarland

Chair Wyers called the meeting to order at 3:39 p.m.

1. Solid Waste Updates

o General Staff Reports

Bob Martin, Director of Solid Waste Department, presented the staff report, and said updated the Committee regarding the compost facility. He said the bank continued to negotiate with a joint venture company, OTVD, a French firm, and Ryan, a Midwest construction firm. He said the bank indicated progress in the negotiations, and he said the bank would be in Portland during the remainder of the current week. Mr. Martin said a meeting would be scheduled in November with the bank and the neighborhoods to review the status of the proposal and negotiations.

2. Report Relating to the Cost of Closing the St. Johns Landfill

Mr. Martin presented the staff report, and said the Department was working to complete the design for closure of the St. Johns Landfill, and said certain contracts had been awarded to begin the physical process of closing the facility in conformity with the closure plan. He said ongoing consultation was occurring with the regulatory agencies including the Department of Environmental Quality (DEQ) and the City of Portland. He noted refinements to the total closure cost estimate at \$32.4 million in the original plan developed in 1988 and adopted in 1989 by the Metro Council was revised upward

Department staff distributed the staff report to the Committee entitled, "St. Johns Landfill Closure, September 1992 Cost Forecast, Construction, Engineering, Contingency". This document has been made part of the permanent meeting record.

Jim Watkins, Engineering and Analysis Manager, referenced Attachment A, which outlined the September 1992 Cost Forecast compared to the preliminary cost forecast, and noted the total was given in 1992 dollars as well as inflated dollars to 1996. He discussed Attachment B, which indicated the September 1992 Construction, Engineering and Contingency costs. Mr. Watkins noted two design change possibilities totaling approximately \$6.2 million. Mr. Watkins reference Attachment C, which forecasted a drawdown schedule for Scenario "C" which was proposed to

(Continued)

DEQ. Mr. Watkins said the Department met with the auditors and presented the information in the model developed by Linda Pang-Wright, Associate Engineer, demonstrating cost estimate differentials. He said the audit report would likely show costs greater than presented to the Committee at this time as the Department had been advised not to present figures which could be too low. He said a letter had been written to DEQ explaining the proposed modifications, and he noted DEQ had agreed in concept to the suggested design changes.

Dennis O'Neil, Senior Solid Waste Planner and Associate Engineer, reminded the Committee the original forecast was based on a preliminary design, and said the current forecast model included final design revisions. He presented graphic displays demonstrating the proposed changes, and he commended the engineers, Parametrix, Inc., for design of a final cover system costing \$3.3 million less than the cost estimate in the original closure plan. Mr. O'Neil explained settlement rates, subgrade embankment and impacts on slopes, ponding problems, and ensuing costs not contemplated in the 1989 closure plan. Mr. O'Neil highlighted other details of the staff report including construction costs, gas/condensate management, the geonet, health and safety program, and leachate collection with costs and efficiencies as related to each.

Mr. Watkins said the Department felt no additional rate impact above the \$75 rate would be experienced.

In response to Councilor Hansen, Mr. Watkins indicated DEQ had agreed to the 5% slope concept, and he said the Department concurred with the engineer regarding estimated slopes between 0-2% over a 30 year period.

Chair Wyers and John Houser, Council Analyst, indicated the report would be presented to the Rate Review Committee within the next month. Mr. Houser said the Rate Review Committee would be working on rate setting toward the end of January, 1993 and early February, 1993.

Councilor Van Bergen expressed concern regarding potential impacts on rates to individual homes. Mr. Martin indicated approximately 33% per \$1 increase on the tipping fee translated to residential monthly can rates. Chair Wyers requested a memorandum be issued by Councilor McFarland to the Rate Review Committee with the information just presented and including the Five-Year Plan information.

In response to Councilor Van Bergen, Mr. Martin said for the purpose of Metro's financial statements, the auditors expected to see a conservative statement of Metro's current liabilities. He said the landfill closure costs were seen as a current liability. He noted it was not clear what DEQ's response would be at the time the figures were presented to the auditors, and felt further adjustments might not be necessary due to the use of conservative figures.

Chair Wyers asked why a zero contribution to contingency was being made this year. In response to Chair Wyers, Mr. Martin said a \$1 million contribution was scheduled last fiscal year, but, he said, because of the unprecedented reduction in flow all contingency and all reserves were used, including a deferral of the scheduled \$1 million for the reserve account. He said this was done in order to avoid a deficit.

3. Resolution No. 92-1686 For the Purpose of Entering Into a Multi-Year Contract with the Most Qualified Proposer by Authorizing Issuance of a Request for Proposals for a Comprehensive Waste Stream Characterization Study

Department Staff distributed an RFP for Comprehensive Waste Stream Characterization Study, dated October 1992. Bill Metzler, Associate Solid Waste Planner, presented the staff report, and referenced his memorandum dated October 30, 1992 responding to Committee questions concerning the proposed resolution. He also referenced his memorandum dated November 2, 1992 regarding cost comparisons of Waste Characterization Studies concerning the proposed resolution FY 1989 and FY 1993 under the proposed RFP. These documents have been made part of the permanent meeting record. Mr. Metzler highlighted the three major elements of the studies, facility sorts, generator sorts and visual characterization/user surveys as well as the three functions Metro would be enabled to perform as a result of the studies. He noted these would include adjustment of revenue forecasts, evaluation of the effectiveness of Metro recycling programs, and local government assistance in implementation of waste reduction programs.

Mr. Metzler said the proposed resolution would allow the Department to enter into a multi-year contract permitting an expenditure of \$125,000 FY 1992-93, and \$125,000 FY 1993-94 on the study.

In response to Councilor Buchanan, Mr. Metzler indicated waste sorts were normally done manually, and said the result was more accurate than visual sorting. Mr. Metzler indicated DEQ ordered Metro to conduct a monitoring of the waste stream for waste reduction purposes every three years.

In response to Councilor Hansen, Terry Petersen, Planning and Technical Services Manager, said a weight-based rates test had not yet begun. He said weight data was being collected, and he said tests could begin.

Debbie Gorham, Waste Reduction Manager, said if local government reaction were favorable and certifiable scales were available, it was possible such tests could be done in the future.

Councilor Van Bergen asked why the study should cost \$125,000 per year and last two years. In response to Councilor Van Bergen, Mr. Petersen said the time and cost estimate for the study was based on past

experience both for Metro and DEQ. In response to Chair Wyers, Mr. Metzler said the Metro study would be similar to but more detailed than the DEQ's, and said he believed DEQ was spending approximately the same amount of money, \$250,000, for a ten county study for the remainder of the state of Oregon.

In response to Chair Wyers, Mr. Metzler explained visual characterization, and said it was proposed that a crew of one or two trained staff would spend time at each facility visually identifying truck loads of materials, truck types, and interview drivers. He noted waste sorts tended to be small samplings of the waste stream.

Motion: Councilor Buchanan moved to recommend Resolution No. 92-1686 to the full Council for adoption.

Vote: Councilors Buchanan, Hansen, Van Bergen and Wyers voted aye.

The vote was unanimous and the motion passed.

4. Ordinance No. 92-471A, For the Purpose of Amending the Metro Code to Establish Criteria to Consider in Designating Disposal Facilities, and Declaring an Emergency

Mr. Martin presented the staff report, and said when Metro passed the flow control ordinance in 1989 two methods were created in which flow from the region could be transported with Metro's permission outside the region; 1) allowing the waste stream to go to any designated facility included in the flow control ordinance at that time, such as the Columbia Ridge Landfill, the Hillsboro special waste site, and Lakeside reclamation, and others within the terms made with individual facilities; and, 2) through a non-system license. He said it was envisioned at that time specific haulers or generators of waste within the region might have a load of waste they desired to transport to a location not on the designated facility list, or that the type of material was other than the type handled at transfer stations. He said an application could be made to Metro indicating the type of waste, and where it was to be hauled. The application would be reviewed with established code criteria relating to non-system licenses followed by an administrative determination on a case-by-case basis allowing a hauler or generator to go to a specific facility. Mr. Martin gave, as an example, a load of medical waste from a hospital which should not go to a transfer station but rather to an incinerator in Bellingham, Washington, an accepted facility, in which case, he said, the hospital would need a non-system license to do that.

Mr. Martin said designated facility provisions in the Metro Code stated the Council may, from time to time, add facilities to the designated facilities list. He said several facilities outside the region had pending requests to become designated facilities. Mr. Martin said upon

COUNCIL SOLID WASTE COMMITTEE

November 3, 1992

Page 5

reviewing Metro Code, the Department felt no clear basis existed why Metro would or would not designate additional facilities. He said the Department originally proposed to amend Metro Code criteria for designating facilities and add to the designated facilities list. He noted concerns developed and the Department felt policy considerations should be contemplated first to determine what Metro Code should contain, followed by the application of those criteria after adoption by Metro Council. Mr. Martin said, should the proposed ordinance pass, no existing designated facilities would be affected. Mr. Martin said it was not the intent of Code language to apply non-system licenses to facilities but rather to generators and haulers, although he noted the Code could be interpreted administratively in that manner. He felt the decision to use new facilities should be a deliberative decision made by the policy body, that is Metro Council, rather than an administrative decision. He proposed the non-system license continue to be used for decisions on a case-by-case basis as previously characterized. Mr. Martin referenced the eight key provisions under the proposed ordinance as outlined in the Supplemental Staff Report dated October 27, 1992 and found in the agenda packet for this meeting.

Mr. Martin reiterated it was possible under the present Code language to provide for consideration of the eight criteria in making non-system license decisions, but, he said he would want the Council to clarify they were comfortable with administrative decision making in that manner. He cautioned such decisions could remain appealable before the Council. Mr. Martin said three requests were pending, and said at least two of them were pending for a considerable length of time.

Councilor Van Bergen asked how did the matter reach the Committee, whether it was straight from the Executive, the Solid Waste Department, or had it been before any policy committees. Mr. Martin said he had not reviewed the matter with the Solid Waste Policy Advisory Committee, and noted he had reviewed the matter with the Solid Waste Technical Committee. He said the proposed ordinance came out of work done in the Solid Waste Department, and noted it had been before the Solid Waste Committee in its earlier version in September, 1992.

Chair Wyers inquired whether a hospital receiving medical waste would need to be designated. Mr. Martin said arguably a non-system license would be needed by the generator or hauler in that case. In response to Chair Wyers, Mr. Martin said he believed some waste had been allowed to go to the Marion County incinerator and a non-system license may not have been processed, although he recalled a general correspondence had been issued stating medical waste generated in the region might be disposed at any fully regulated, licensed and in compliance for handling medical waste. Chair Wyers suggested the matter be reviewed by the Department.

COUNCIL SOLID WASTE COMMITTEE

November 3, 1992

Page 6

In response to Chair Wyers, Todd Sadlo, Senior Assistant Counsel, said neither in the proposed ordinance nor prior to the proposed ordinance did the Metro Council approve the designated facility agreements, and said such agreements had been administrative decisions. Chair Wyers indicated she wished to see that changed. Mr. Martin said when the proposed ordinance had originally been brought forward to the Committee, the proposed designated facility agreement was brought forward at the same time. He added the Department had no objection to making that explicit at this time, rather than implicitly implied. He said he might have taken for granted that the Council would not to issue a designated facility status without first seeing the proposed designated facility agreement. He agreed it was wisdom to create language within the ordinance that a designated facility agreement be drafted prior to bringing a request forward to the Council. Chair Wyers said the Committee would want to see the findings, the agreement, and that it be clear in the Metro Code these agreements would be approved by the Council. Mr. Sadlo indicated he had provided language to that effect to Mr. Houser. Chair Wyers asked whether information on the findings were included. Mr. Sadlo said findings would not be made the way the ordinance was set up. He said the ordinance was set up to tell staff what they should be providing to the Committee for review prior to making a decision on a designated facility request. In response to Chair Wyers, Mr. Martin and Mr. Sadlo said the matter would come to the Committee in the form of a proposed ordinance designating an additional facility according to the Department recommendation. He said a staff report analyzing the request for designated facility status and addressing the criteria would be included, as well as a proposed designated facility agreement, all of which would be adopted by ordinance should the staff recommendations be accepted. In response to Chair Wyers' reference to page 2 of proposed Ordinance No. 92-471A, Mr. Martin concurred any new proposed recommended designated facility would be listed as (9) and so on, along with a reference to the agreement for the terms and conditions executed for that facility, and the agreement would be presented for review at that time as well.

In response to Chair Wyers, Mr. Sadlo said he understood upgrades for Hillsboro and Lakeside were desired, and the decision of the Committee would affect those matters. He said in the absence of the proposed ordinance the matter would have been handled by the Executive Officer, who, he said, would have presented the matter to the Committee, not for approval, but to change the ordinance so as to no longer refer to an agreement that would no longer be in effect. Mr. Sadlo said in such a matter the new agreement would come to the Committee informationally only on an Executive level with no request for approval.

Mr. Martin said provision for renewals and terminations of current designated facility were in the agreements. He said the Council wished to see all agreements language could be added to the Metro Code.

Chair Wyers referenced a memorandum from Mr. Houser dated November 3, 1992 regarding possible amendments to the proposed ordinance. She noted one of the proposed amendments read, "An agreement, or amendment to an agreement between Metro and a designated facility, shall be subject to approval by the Metro Council prior to execution by the Executive Officer." This document has been made part of the permanent meeting record.

The Committee, Department Staff and Legal Counsel clarified that all agreements, whether new or amended agreements, for existing designated facilities or proposed future designated facilities would have to come to the Council.

In response to Chair Wyers, Mr. Sadlo said if the Committee wished to require the Hillsboro and Lakeside agreements be updated a section should be added to do so by a specific date.

Mr. Martin agreed the first proposed amendment in Mr. Houser's memorandum would be an improvement to the proposed ordinance. He said the regarding the second amendment, ", any negative impact shall be grounds for denial of designation of a specific facility," was true whether the ordinance contained the language or not. He was concerned how "negative" impact would be determined.

Chair Wyers asked how the impact on the recycling rates would be measured for a proposed designated facility. Mr. Martin indicated review of quantities of waste in total, the kind of business the facility was designated to receive, the facility's rate, how much of the waste stream would flow to the facility, whether or not the material would first go through a processing, sorting or recycling facility. He noted an example was a proposed designated facility which specified demolition debris originally go to a processing facility in order that recoverable content be recycled first. He felt each case would be a special case with special set of circumstances.

In response to Chair Wyers, Mr. Martin said provision would be made to ensure collection of the Metro user fees.

In response to Chair Wyers, Mr. Martin and Mr. Sadlo indicated several haulers had non-system licenses.

In response to Chair Wyers, Mr. Martin said language was contained in the proposed agreement enabling Metro to rescind a designated facility's classification.

Chair Wyers opened a public hearing.

Diana Godwin, Attorney at Law, representing Regional Disposal Company testified before the Committee and read into the record her testimony

dated November 3, 1992. This document has been made part of the permanent meeting record. Ms. Godwin commented concerning the use of the term "residents of the region" as expressed under section (b) (8) on page 3 of the proposed ordinance. She said no definition existed for the term elsewhere in Metro Code, and clarified the definition meant all persons who live and do business in the region and who are subject to Metro's flow control including businesses and industries. Ms. Godwin the need of industrial generators in the region should be considered, but noted "need" criteria could be used to restrict competition. She felt approval of the ordinance would establish a more competitive marketplace, allowing Metro to capture fees on materials now escaping the system. She ensured her company would institute strict policing procedures. Ms. Godwin urged passage of the proposed ordinance.

Chair Wyers disagreed with the statement made in the second paragraph of Ms. Godwin's written testimony. Ms. Godwin clarified a new facility would have no record of compliance with the Metro system.

Mike Sandberg, representing Hillsboro Landfill, testified before the Committee and expressed concern that smaller facilities such as Hillsboro Landfill would not be able to compete with larger regional landfills such as Roosevelt, Columbia Ridge and Finley Butte. He said their fixed costs were \$34.65 per ton, and said if a hauler could transport material for \$5 per ton and pay a fee of \$20 per ton, his company could not compete.

Doug Conan, Division President and General Manager for Oregon Waste Systems (OWS), testified before the Committee. Mr. Conan noted OWS owned and operated Columbia Ridge Landfill and was Metro's primary disposal contractor. Mr. Conan asked the Committee to consider the concerns of Gilliam County and its residents. Mr. Conan referenced a letter from OWS attorneys at law, Cable, Huston, Benedict, Haagensen and Ferris dated November 2, 1992. This document has been made part of the permanent meeting record. Jim Benedict, Attorney at Law, testified before the Committee, and expressed concern that the designation of additional facilities would violate their agreement with Metro and would disrupt Metro's disposal system planning efforts. In addition, he contended that a lack of specific evaluation criteria could cause legal and enforcement problems. He said a mechanism was already in place, the non-system license, which he said would accomplish Staff's objectives. Mr. Benedict went on to highlight the points expressed in his firm's letter.

Councilor Buchanan recommended further consideration be given to the matter. Chair Wyers agreed the matter be set over for consideration to the next Solid Waste Committee meeting to be held November 17, 1992 and asked staff and the Committee to consider further the amendments and issues brought forward at this meeting.

COUNCIL SOLID WASTE COMMITTEE
November 3, 1992
Page 9

Chair Wyers closed the public hearing.

Councilor Van Bergen entered into the record a FAX'd letter from Judge Laura Pryor, Gilliam County Judge, dated November 3, 1992. This document has been made part of the permanent meeting record.

There being no further business, the meeting adjourned at 5:40 p.m.

Respectfully submitted,



Marilyn Geary-Symons
Committee Recorder