

MINUTES
Troutdale City Council – Regular Meeting
Troutdale City Hall – Council Chambers
104 SE Kibling Avenue
Troutdale, OR 97060-2099

Tuesday, November 13, 2007

1. PLEDGE OF ALLEGIANCE, ROLL CALL, AGENDA UPDATE

Mayor Thalhofer called the meeting to order at 7:00pm.

PRESENT: Mayor Thalhofer, Councilor Kight, Councilor Thomas, Councilor Canfield, Councilor Kyle, Councilor Daoust and Councilor Ripma (7:04).

ABSENT: None.

STAFF: John Anderson, City Administrator; Rich Faith, Community Development Director; Jim Galloway, Public Works Director; Debbie Stickney, City Recorder; David Ross, City Attorney; and Jack Hanna, Code Enforcement Officer.

GUESTS: See Attached.

2. CONSENT AGENDA:

2.1 – Resolution: A resolution designating the Mayor, Council President and staff as signatory/cosignatory for authorized banking transactions of the City of Troutdale, Oregon and rescinding Resolution No. 1689.

MOTION: Councilor Daoust moved to adopt the consent agenda. Seconded by Councilor Thomas. Motion Passed 6 – 0.

Councilor Ripma arrived at 7:04pm.

3. PUBLIC COMMENT: Please restrict comments to non-agenda items at this time.

None.

4. RESOLUTIONS: A public meeting on the following resolutions:

4.1 A resolution approving an exclusive franchise agreement with Waste Management of Oregon to provide solid waste collection services within the City of Troutdale.

4.2 A resolution establishing solid waste collection fees in conjunction with the franchise agreement with Waste Management of Oregon and repealing Resolutions No. 1682 and 1800.

Rich Faith, Community Development Director, stated the first resolution pertains to the exclusive franchise agreement with Waste Management of Oregon. Our current franchise agreement is due to expire at the end of this year. The Council has held several work sessions over the course of this past year to discuss our solid waste agreement and the current franchisee, Waste Management of Oregon. Over the course of those work sessions and discussions, the conclusion that you reached was that you were satisfied with the level of service that Waste Management has been providing and you found that their rates were competitive with other haulers in the Portland Metropolitan Region. On the basis of those conclusions the Council then informed Waste Management of certain changes that you would like to see in our next franchise agreement and directed staff, in conjunction with Waste Management, to make those changes. The proposed franchise agreement before you this evening incorporates the various changes that the Council indicated that they would like to see.

Rich Faith reviewed the major changes in the proposed agreement. **Section 3 – Definitions:** Most of these changes are new definitions that pertain to accounting practices. **Section 4 – Exclusive Franchise and Exemptions:** A new Subsection 4.4 was added which says that Waste Management must reimburse the City our costs in taking action against a person who infringes on the Franchisee’s exclusive rights under this agreement if Waste Management were to ask the City to take action, however the City is not obligated to take action. **Section 5 – Franchise Term:** Just like our current agreement that ran for eight years, the new agreement is proposed to be valid for eight years. Waste Management has asked for an addition to this section of the agreement. They are asking that after four years into the eight year term, if the City is satisfied with their performance that we would then consider a four year extension. The affect of this is that we would really have a rolling eight-year franchise term that is evaluated every four years instead of waiting until the end of the eight years. **Section 6 – Franchise Fee:** Our current agreement says that Waste Management will pay the City a franchisee fee of 4% of gross revenues. In reality they have been paying us 5%, which is actually what is spelled out in the Troutdale Municipal Code in our Solid Waste Ordinance. What we are trying to do is rectify the conflict. It really should be 5%. There is also some additional language in this section which explains what gross revenues mean and that factors into how the franchise fee is calculated. We have added a new subsection 6.4 that transfers responsibility from the City to Waste Management to mail out notices to Troutdale residents of our annual Spring Clean-up event. In the past the City has done that but Waste Management is set-up to do this. The City will continue to publicize the event in the Troutdale Champion. **Section 7 – Rates:** There is new language added in Subsection 7.1 that obligates the City to act without undue delay on requested rate adjustments, but in no case may the City wait longer than 120 days after the request is made to make adjustments. There is a new Subsection 7.6 which establishes that the rates shall be adequate to provide an operating margin equal to 10% of gross revenues. **Section 8 – General Franchisee Responsibility:** Subsection 8.3 requires Waste Management to provide roll carts as the service standard for all types of solid waste – garbage, recyclable materials and yard debris. Subsection 8.6 offers an optional new service for off-curb collection to allow customers to leave their containers next to the house or garage as opposed to having to bring them out to the curb. Subsection 8.7 is a change that sets a limit of 12 garbage containers within the downtown area that Waste Management is required to collect and dispose of without a cost

to the City. **Section 15 – Roll Carts and Other Receptacles:** This section provides a full explanation of the new roll cart system that is being proposed. The amendments require customers to use the roll carts that Waste Management provides. **Section 16 – Public Responsibility:** Changes to this section primarily address the weight restrictions for the various sizes of containers and specifications for supplementary containers that customers set out for extra collections. **Section 18 – General Customer Preparation of Recyclable Materials:** This contains the addition of the new material (plastic tubs) that is now going to be collected as a recyclable. This is possible because of the conversion to roll carts. **Section 19 – Customer Preparation of Yard Debris Materials:** These amendments specify the type of container that customers may use for excess yard debris that does not fit into their yard debris roll cart provided to them. **Section 20 – Yard Debris Exemption Program:** The most significant change is that Waste Management, rather than the City, will administer the yard debris exemption program. **Section 22 – Allowed Weight of Receptacles:** The weight limit table is being amended to show the different sizes of roll carts available to the customers. **Section 30 – Indemnity and Hold harmless:** With the changes to this section Waste Management agrees to indemnify and hold the City harmless except to the extent that a claim arises from the sole negligence of the City. **Section 32 – Protection of Containers:** This is a new section that stipulates that the City agrees to adopt new code provisions making it unlawful for anyone other than Waste Management or the person producing the solid waste to interfere with the solid waste container, taking solid waste materials from a container or removing a container or its contents without first obtaining written consent from Waste Management. **Section 33 – Effective Date:** The effective date is being changed to become effective on January 1, 2008.

Rich Faith stated the second resolution establishes solid waste rates which are built off of the terms of the franchise agreement. The last time our solid waste rates were adjusted was in March 2004 and there was a minor change in March 2006 when roll carts were added as an optional service for recycling materials. Since 2004 there have been a variety of factors that have contributed to the increase in costs and a number of significant impacts in the delivery of service such as labor costs, higher disposal fees, and fuel costs to name a few are all being factored into the new rates being proposed. That is coupled with the cost to administer new recycling programs and takes into account the expanded service with the use of roll carts.

Rich Faith stated Exhibit A of my staff report is a comparison of all of the proposed new rates with the current rates. This shows that a typical residential customer who now subscribes to weekly pick up and has a 35-gallon roll cart garbage container, a 60-gallon roll cart yard debris container but uses only a Curby currently pays \$21.35/month. Under the new rate schedule with that same level of service except that they will now be required to have the roll cart for recyclables, the customer would be paying \$25.60/month, which is a \$4.25/month increase. Exhibit B of my staff report shows a comparison of Troutdale's proposed rates with those of other communities in the Portland region.

Councilor Kight stated in Section 5, Franchise Term, you mentioned opening up negotiations every four years. Should we elect to go that direction, does that mean that it negates the contract that we already have and essentially we are drawing up a new contract?

Rich Faith replied I guess that is open to interpretation. I didn't understand it to mean that we were necessarily going to modify the terms of the agreement, the only thing that was up for discussion was a continuation. Perhaps we should clarify that with Waste Management.

Councilor Kight asked the City Attorney to comment on that.

David Ross, City Attorney, stated it says that we will consider in good faith an extension of an additional four years. That does not mean renegotiating the terms of the agreement, but agreeing to extend it for another four years.

Councilor Kight so the terms would remain the same?

David Ross replied that is how I read it.

Councilor Kight stated Section 15 Roll Carts, when are these going to come on-line?

Rich Faith replied that can best be answered by the representatives from Waste Management. It was my understanding that they were going to have the rates take effect on March 1st and the intent is that the roll carts would be delivered by that time.

Councilor Kight stated Section 20, Yard Debris Exemption Program, how are you going to treat the residents that are already grandfathered into the program? Will they still be administered by Waste Management?

Rich Faith replied yes. Waste Management knows who is currently in the program and they would be allowed to continue.

Jack Hanna, Code Enforcement Officer, stated the yard debris exemption program as it stands now is that the citizens apply to the City. I take in the application, once it is verified I send that and a sticker to Waste Management. Waste Management then files the application and gives the sticker to their driver who then puts the sticker on the container that states "I Compost". Currently our only involvement is receiving the application and mailing it to Waste Management. Under the proposed change it would just be a matter of Waste Management receiving the applications and putting the sticker on their container.

Councilor Kight asked is there any inspection program to see what they are doing with the yard debris?

Jack Hanna replied they fill out a form that says that they compost and that they have a compost bin in place. Generally when they submit an application I go out and just take a look to make sure that they do. Whether they maintain it after they get the permit or not is not something that is checked.

Councilor Kight asked if Waste Management is going to be administering the program, are you going to be cut out of the process as far as going out to the property to see if they are composting?

Jack Hanna replied we don't really do that now, except when we receive the initial application if they say they have a compost bin or pile I will go out and look.

Councilor Kight asked but you are not going to be doing that in the future?

Jack Hanna replied I could do that if Waste Management sends me an email when they receive the initial application.

Councilor Ripma asked in the rate schedule is there a fee for special pick ups of televisions or other large items?

John Anderson stated it is on page 7 under Section IX Miscellaneous Service Fees.

Councilor Canfield stated Section 8, item 7 the second sentence reads, "Provide, at no cost, collection and disposal of 12 containers, four yards or less that are open to public use in the Central Business District." How many containers is Waste Management currently servicing for no cost?

Rich Faith replied it was actually in here but it wasn't being applied.

Councilor Canfield stated in Section 14, Reporting, it talks about the reports that the franchisee shall provide to the City. Is the City receiving these reports currently?

Jack Hanna replied yes.

Councilor Canfield stated in the new agreement they have built in a rate of return of 10%. Has the city staff done any analyzing of the new rates to see if the rate of return is in that ballpark?

Rich Faith replied we are not really equipped to do that. In the past whenever we have had a rate study we have hired outside help to evaluate it.

Councilor Kyle asked on page 9, Section 7, item 6, is this operating margin a new addition?

Rich Faith replied in 2004, which was the last time the rates were adjusted, in looking back at the staff report that was done at that time it made note that the past practice of the Council in terms of their review and position on the rates, that an operating margin of 8-12% was deemed to be acceptable or appropriate.

Councilor Kyle stated in Section 8, General Franchisee Responsibility, I am wondering about the containers in the Central Business District, specifically in Mayors Square. I remember seeing graffiti this summer before one of our events and no one wanted to make claim as to

who was responsible for taking care of the graffiti on the container. If we get cans with graffiti on them I would like them replaced particularly if they are out in the downtown area.

Rich Faith stated the trash receptacles in downtown were paid for and provided by the City. In the past we have maintained those.

Councilor Kyle stated in reading through the agreement I see that the City has responsibility, the public has responsibility and the customer has responsibility. I am wondering if there is anything in this agreement that says that employees of Waste Management are supposed to return our garbage cans to the same place we leave them. For example if we have the can secured to a post, is there anything in this agreement that requires them to return it to the same location?

Councilor Canfield stated the proposed agreement is showing that language as being removed?

Councilor Kyle asked why is that being removed? I think that should be required.

Rich Faith replied my guess is because we are going to roll carts and perhaps they feel that it is not necessary to tie down the roll carts with the lids.

Councilor Kyle stated I don't agree with that. I still think that language should be left in the agreement.

Councilor Daoust stated this reporting to the City by Waste Management, we see these rate increases but do we get any information to back them up? I notice that they would like a lot of new definitions for allowable expenses and unallowable expenses and what their profit margin should be, but do we get fed back that information? The only report I see is a yearly report where they give us our cost. Is that yearly report the only report that we receive that shows the detail of what all of these allowable expenses are or anything to back up the rates?

Jack Hanna replied the financial reports don't come to me.

Adam Winston, Waste Management, stated we have made some notes on some of the issues you have brought up and hopefully we can answer all of your questions. The first question was regarding the mid point of the contract. What typically happens with many of our franchises is it is an opportunity to do a franchise review. Typically we are complying and things are going well and four more years are added onto the existing four years.

Dean Kampfer stated it is also an opportunity to discuss new programs or services that you may want to add to the franchise.

Councilor Kight asked are you saying that the terms remain essentially the same and the only thing that changes is the extension of the date or does it become a vehicle for renegotiating rates?

Dean Kampfer replied if you are happy with the current agreement you can just extend it for another four years and continue with the current agreement. If there are enhancements that you would like to see changed it is an opportunity to change it.

Adam Winston stated there were questions regarding the yard debris exemption program. That program, in the proposed agreement, would be administered by us.

Councilor Kight asked would the City be doing the inspections?

Adam Winston replied we would prefer that. I believe that pick-up of bulk items was the next question.

Councilor Ripma stated I have read the language on the last page and I think it is reasonable.

Adam Winston stated the next question was regarding the franchise responsibility on the twelve free containers.

Dean Kampfer stated currently the City staff has been emptying the containers and taking it to a consolidated container. In the new contract we will service those containers. I believe there are currently six to eight but we are open to providing that service for up to twelve containers.

Councilor Canfield asked how did you come up with the figure of twelve?

Dean Kampfer stated it was mutually agreed upon with City staff as to what the need is for that service.

Councilor Canfield asked why are the City parks excluded?

Dean Kampfer replied that has been the current situation, it wasn't excluded.

Councilor Canfield stated that is not what the agreement said.

Adam Winston asked is it your perception that the parks were included in the past and they are not now?

Councilor Canfield stated on page 11 of Exhibit A, item 7 is proposing that the language being deleted that says, "including but not limited to the City parks".

Mike Jefferies stated it is my understanding that there was more concern about servicing the downtown area and they wanted to make sure that those were being serviced because they already had some parks folks that were picking up the cans and moving them to a consolidated area. So we agreed to do those downtown cans in exchange for not doing the parks.

Councilor Canfield asked is that correct?

Rich Faith replied to my knowledge we have always been picking up the garbage in our City parks. When I talked to our parks supervisor about this provision I think he was satisfied with continuing to pick up the garbage in the parks. The one thing that we might consider is that there is a dumpster that all of that garbage is brought to and whether Waste Management would want to include that as something they would pick up. I don't believe that we want them going into the park to collect individual containers, but whether or not we would want them to pick up the dumpsters at Glen Otto Park and/or Columbia Park is up for discussion.

Councilor Canfield stated in looking at this language it appears that we had a free service that we were not taking advantage of.

Adam Winston stated the next question was on Section 32, Protection of Containers. This has been added to help prevent scavenging.

David Ross, City Attorney, stated there is a typo in Section 32 in the last sentence. It reads, "The Franchisee shall be a private right...", it should read, "The Franchisee shall have a private right...".

Adam Winston stated the next question was on Section 14, Reporting. What is very common in our franchise reporting is we will give a detailed cost report every year. Depending upon that detail cost report, that generally will drive the rates either up or down.

Councilor Daoust asked in March when you are going to be switching the cans to roll carts, if people don't do anything will you be delivering those three roll carts to their house?

Mike Jefferies replied yes.

Councilor Daoust asked if they have different sized cans currently, if they say nothing or do nothing, that is what they will get?

Mike Jefferies replied if they have a 60-gallon roll cart for garbage we will keep the same level of garbage service but deliver the two other containers. Our standard service is a 35-gallon roll cart for garbage with 60-gallon for recycling and yard debris.

Adam Winston stated if you want to add back the language in Section 15, Item 7 regarding securing the receptacles, I don't have a problem with that.

Council agreed to include that language in the agreement.

David Ross, City Attorney, stated regarding the franchise term language, we have an ordinance that says the franchise agreement shall not exceed ten years. The way the proposed language in the agreement reads, it is a twelve year term.

Councilor Ripma stated it isn't a twelve year term; it is four years and then four years out it will be renewed for another four years.

Councilor Canfield asked is that an extension and not a renewal?

David Ross stated it says that the term is eight years and it will be reviewed at four to extend it another four years.

Adam Winston stated whatever we need to do to comply with the City Code, we are fine with that.

David Ross stated we can change the extension to an additional two years instead of four years, for a total of ten years.

Councilor Ripma asked at no point are we bound to them for twelve years. It is only after four years that we become bound to them for an additional eight years.

Councilor Kight stated I don't see that either.

John Anderson stated the intent is that they make capital investments so they would like to have a longer franchise. This is an eight year franchise and you can't go out and get another franchisee in that eight year period and if you renew at the end of four years it is twelve and you can't get another franchisee for that period. This would be a mechanism so that at the end of four years they could turn this into a twelve year franchise.

Councilor Ripma stated they would only know that after four years into the contract.

Councilor Kight stated all they have with this is an option to extend for another four years. At no point does it go beyond eight.

Multiple conversations, inaudible.

Councilor Kight stated with the garbage cans that you are picking up in downtown, you have indicated that you will do that once a week. What if the City has a special event and there is extra garbage.

Dean Kampfer stated over the last couple of years we have furnished cardboard boxes with plastic liners for whatever the demand is for the specific event. This past year we did four events. We also provide a 20 yard drop box to offload those containers.

Mayor Thalhofer asked is Waste Management picking up the dumpsters at the park?

Councilor Daoust stated I assume they did, someone is picking up the dumpsters in the parks.

Dean Kampfer stated you pay for that service, but we are the ones picking up those containers.

Councilor Canfield stated since it looks like you should have been doing that free of charge for the last several years, maybe you could include the dumpsters in the parks at no cost.

Dean Kampfer replied if the parks crews can continue to dump the containers into the dumpsters I am sure we could pick those up for you.

Councilor Canfield asked is that a yes?

Dean Kampfer replied yes.

Mike Jefferies showed the Council a PowerPoint Presentation (copy included in the packet). The presentation included information on new programs, recycling volumes and rate impacts. The new programs include converting residential collection to the cart system, addressing litter concerns, garbage and recycling carts with latching lids, enhanced recycling programs, optional off-curb collection, reduced haul rates for drop box service and implementing a service fee associated with drop boxes. The advantages of going to the fully carted system include: An expectation that converting to the roll carts will be a conduit for higher recycling with an estimated improvement between 12% and 14%; reduction in wind blown trash in the community; doubling the capacity for recycling on a weekly basis; wheels and handles on the cart make it easier to move the carts to the curb; one container means fewer trips to the curb; improved quality of recycling by keeping the paper dry; and the carts help reduce our injury rates for the drivers. The advantages of offering an optional off-curb service for residential customers includes: Optional service for customers concerned about leaving containers at the curb; allows customers to not worry about collection day if they are not home; and addresses concerns about wind blown containers and trash left at the curb because they will be sitting up next to the house. Converting to the roll cart system will allow more capacity to recycle and will help improve the City's diversion rate. The City is currently at 43% which is about 15% below the region's average. With an increase in recycling what we would hope for is that customers will be able to downsize their garbage service to reduce impact on collection rates.

Mike Jefferies reviewed the slides that show: The actual rates versus the CPI adjusted rates; cost comparisons from 2003 to 2007; residential rate impact analysis which compares the current rates with the rates that would be required with the current inflation and the increase in disposal fees without the addition of any new services, and the proposed rates for the new roll cart services; and rate comparisons of surrounding jurisdictions.

Council had no further questions.

Mayor Thalhoffer asked is there anyone here that would like to speak to us on this issue?

David Ellis, resident, stated I do have some concerns. The \$21.25 that was cited, I don't believe that included the roll cart fee of \$4.25, is that correct?

Mike Jefferies stated the rate of \$21.25 is for a 20-gallon weekly garbage service and does include a 60-gallon roll carts for yard debris and recycling.

David Ellis stated that wasn't clear in the brochures. It looked like it was an additional charge as opposed to a basic rate fee charge which would make a very stiff rate increase for Troutdale residents. I noticed also in your charts that your rates are going up faster than what the average blue collar community this is supporting for the rates for your drivers and their benefit packages; that concerns me. The City is also going to get an additional 1% increase and I don't know what we are getting in exchange for all of these extra costs that are going to be added to our monthly fees. It is basically the same service at a higher rate.

Mike Jefferies replied actually what you are going to be receiving is three roll carts. You will have a roll cart for your garbage, recycling and yard debris.

David Ellis stated I don't need three carts at my house.

Mike Jefferies stated what we have experienced in other jurisdictions is over a period of time the recycling levels increase and then folks have the ability to downsize their garbage container in order to save money. What we are looking to do is improve the recycling within the community and the region and this is one of the mechanisms in order to do that.

David Ellis stated three carts takes up a pretty good footprint in a garage or wherever. I see these containers out there and people don't take them inside their garages and they leave them outside and it is kind of a blight on the neighborhood. I haven't really seen a hardship demonstrated that would justify an increase in the fees for what you are asking for. Basically your primary argument is that it will increase recycling and I am not even sure that is something you can demonstrate. I think there are some other things that Waste Management has failed to do to be able to get a better market share of the recyclables. One concern is that a lot of people haven't got a clue as to what they are supposed to be putting out and how to do it. If they had stickers that could be put on the side of the cans that graphically show what they are supposed to be doing that would probably increase the recycling and decrease the confusion.

Mike Jefferies stated the Curbys don't really have a lot of room to advertise what can go into them. The new roll carts will have a stamp or decal on top of them that will address all of the different types of recyclables that will be allowed.

David Ellis stated if you get additional recyclables than that should also help reduce the costs. Was that factored in?

Adam Winston stated the rates are based on the overall service and those types of costs are all factored into the rates. I think it is important to remember that one of the reasons why the cart program was proposed is because of the wind blown litter. Last winter we had a lot of problems with trash cans being blown over and recyclables being blown around the City so we offered the cart system as a way to help prevent that. Obviously we are at the direction of the Council and we have discussed this with them. We have a lot of cities that have gone to this program and it is a very good program.

David Ellis stated if your theory that you are trying to implement doesn't work, then you have cost the City and the residents a lot of money.

Adam Winston stated we have done a very good job over the years to help contain our costs. I understand your concerns. This is something that we have been discussing with the Council. I also want to clarify that the franchise fee did not go up 1%, that was a clarification.

David Ellis stated I don't know if you have examined any other alternatives that would help residents maintain costs that are more reasonable than what you are proposing. For instance, would there be an option for residents to purchase their containers as opposed to taking the one that you are forcing on them?

Adam Winston replied we did look at that. When we have a container out there we maintain it. If it is damaged we replace it. If you want to upsize or downsize we take care of that at no cost to the consumer. If we had customers buy their own carts we get into liability issues. If they wanted to change a cart size it would be their responsibility to buy that. In terms of the overall makeup of the program it does make the most sense for us to provide the cart.

David Ellis stated it makes the most sense to you only from a financial standpoint. It does not make the most sense to the consumer. The liability issue has not gone away, it exists right now.

Adam Winston stated the one thing that affects the entire rate system is by having a standard container it can be dumped mechanically by our trucks. If the customers provide their own container then there is a good chance that it will not fit the mechanism used on the trucks to dump the containers.

David Ellis asked would that be an issue if they purchased the container from you?

Mike Jefferies stated I understand your concerns and appreciate your comments. It is something that we haven't done and from a logistical and operational standpoint, it would be a very difficult thing to accomplish.

Brian Hebert, resident, I would like to thank everyone here for bringing this up because it is a big issue for us in Troutdale. What will we do with the current roll carts that we have and will there be a program to collect and replace those?

Adam Winston replied if they are usable then you can certainly use those and we will apply a bungee to it, if we need to get you a new one we will get that for you.

Brian Hebert asked will the repair of the new carts be handled by you?

Adam Winston replied yes.

Brian Hebert asked the off-curb pickup, how does that program work? Can we leave the carts behind the fence and you will pick them up, or do they have to be brought out.

Adam Winston replied it is an optional service and there is an additional charge for it. We prefer to not go into back yards to get them, but if they are on the side of the house we can certainly do that.

Brian Hebert asked what is the difference with them being on the side of the house or out at the curb?

Adam Winston replied in terms of the cost?

Brian Hebert replied the program.

Mike Jefferies stated the driver would actually exit the truck, walk up to the side of the house, grab all of the roll carts and bring them down and have them dumped and then return them back to the side of the house.

Brian Hebert stated the reason I put them behind the fence is so that they won't blow away. Putting them out in front is basically the same as putting them out at the curb. I would prefer that the customer bring the carts out to the curb and that implies to the person that they need to put them away whereas if they are on the side of the house then they are always out.

Councilor Thomas asked are you asking to have that provision removed?

Brian Hebert replied yes. It would also be helpful if we could get some information on the recycling program. We have lived here for two years and we don't have any information on recycling. Will the mid-year evaluation be an opportunity for Waste Management to re-evaluate their rates with the Council?

Mike Jefferies replied our rates are evaluated on an annual basis. We submit an annual cost report that allows us to earn a rate of return within 8% to 12%. Any time the rates fall outside that rate of return then we would come forward and request a rate adjustment.

Brian Hebert asked so the four year evaluation only benefits the Council?

Adam Winston replied we need to get that straightened up as we discussed. We want to make sure we are in compliance with the Code.

Brian Hebert stated the reason we have a contract is to live out the eight year contract and if the evaluation helps us then I think it would be a good thing to have in there but if it is something where everyone gets together and renegotiates the contract, I don't know that really benefits us.

Emily Windsor, resident, stated my family recycles. We have four kids that are home schooled so we are making all of our garbage at home, we are not taking it out anywhere else and we manage to use a 20-gallon can and we don't even fill that up. I am opposed to the rate increase. It is a 25% increase for me. I am going from \$16.70 a month to \$21.25 a

month. I think this is a significant increase. I realize there will be increases due to the fuel and the increased wages, but that is a little steep. I also have concerns about where we are going to put those cans. Right now I have a 20-gallon can for garbage and a 32-gallon can for yard debris, which I don't use weekly. I am wondering where I am going to put two 60-gallon carts and a 32-gallon cart. We have a lot of bikes in our garage and we actually park our car in the garage. We like to keep the garbage containers in the garage and not outside like some of our neighbors because that is unsightly. Right now I have the regular 20-gallon can and 32-gallon can, so what am I going to do with those containers, put them in the garbage because I have to get new ones. I don't like the idea of having to get the roll carts, I think if people want to buy them and use them that would be fine, but I don't like it being mandatory.

Mari Hunt, resident, stated you have an article in the Champion newsletter about how we have fallen short in our goals of recycling here in Troutdale. I personally think this is a great opportunity. I moved here from Gresham and in Gresham every single thing had to go in its own compartment. Waste Management makes it much easier to recycle. I have been recycling for years. I have once a month pick-up and I don't even fill that can up most of the time. I find it very easy to recycle. I called Waste Management and asked them what the rules were and they sent me a brochure that was very explicit. My monthly bill is only \$10.21 because I am a good recycler. The only concern I have is the space, I don't know where these carts are going to go. I understand that concern and I think it is a genuine one. I think this is an incentive program because if you recycle you can reduce your monthly bill.

Ana Stanina, resident, stated I am not happy with Waste Management. I think I pay too much. The cans are way too big for me. I don't have a lot of garbage and recycling. In case I don't want to use Waste Management anymore, where do I have to go with my garbage?

Councilor Kight stated one of the issues brought up was the idea of purchasing the carts. Part of the costs built into your fee structure is the cost of the carts. Could you address that?

Adam Winston replied the issue is that logistically and operationally it is very difficult to have people go out and buy carts for this type of service. You will run into a couple of different things. You will have to tell folks what carts they would have to buy and where to buy them. We are not in a resale business. We need to have standardized carts. Our carts are heavy duty carts. If you go to Home Depot or other similar stores and they don't sell those types of carts they would quickly be destroyed. If we provide the carts and they are damaged or they want to upsize or downsize we will replace that cart. If someone goes out and buys a cart then there is an issue of determining if the damage was due to wear and tear or did we break it, and that is not then built into our rates. Do we then have to have a repair fee or do we have something where we allow one cart replacement over a certain period of time. It becomes very difficult.

Councilor Thomas asked when you spoke to us about having mandatory garbage service at a work session you stated that would hold down the rates. I thought the rate that I saw was lower than what is being proposed tonight. Am I missing something?

Mike Jefferies replied at one point we were discussing mandatory service and we had identified that there was roughly 300 additional homes that we would pick up as a result of enforcing mandatory service and by having those 300 homes it would allow us to spread our fixed cost over a wider base. Adding 300 homes wouldn't require a lot of additional capital so yes, that was bringing down the rates.

Councilor Canfield stated I think we decided against that.

Councilor Kight stated yes, the Council voted that down.

Councilor Thomas asked if residents want a smaller recycling cart can they have a smaller one?

Adam Winston replied yes. We want to encourage folks to try it first.

Councilor Thomas asked for residents on fixed incomes, is there anything that we can do to accommodate them?

Adam Winston replied folks can apply for the yard debris exemption and the more recycling they do will help bring their garbage rate down.

Councilor Thomas stated one of issues you mentioned to us was the ability to pick up garbage faster with the roll carts. Will the bungee cords hinder that?

Adam Winston replied with the bungee cord we will not be at the point of being automated because the driver will have to still get out of the truck. What it will do, which obviously is a cost that we want to control and is a benefit for the employees as well, is the driver no longer will have to lift the cans as they did in the past which puts them at less of a risk of injury and helps us control the health care costs.

Councilor Thomas stated regarding yard debris, if we have branches that are too large to fit in the cart will you take them?

Adam Winston replied we can take them but I believe that there is an extra charge for that. One thing you will find with these yard debris carts is they are a pretty good size and you can break most things up enough to fit into them.

Councilor Thomas stated you mentioned a recycling newsletter. I believe in the past we have also included a list of items that can be recycled in our Champion newsletter. Maybe you could do that more frequently or include information with your billings.

Councilor Daoust stated the recycling can that I have has a decal right on the inside of the lid so you know what you can and can not recycle.

Mayor Thalhoffer asked could you offer a service for every other week pickup?

Mike Jefferies replied we do have an on-call rate where you just call us when you you're your carts picked up and we will schedule you for the next service day.

Mayor Thalhoffer asked what is the rate for that?

Mike Jefferies replied \$9.50.

Mayor Thalhoffer stated you have a once a month service, could you have a every other week service?

Adam Winston replied if that is something that is a need we can take a look at that.

Mayor Thalhoffer stated I think there is a need for that. I think our citizens have made some good points. The only thing that sells this to me is that this is the best way to deal with the east wind and blown trash and recycling.

Councilor Canfield stated you are asking for a 10% rate of return. What is the need for that rate?

Adam Winston stated the industry has become more capital intensive. We have trucks that are very expensive and the carts and so forth. In order to continue to invest in that capital we need that rate of return.

Councilor Canfield stated you mentioned that in 2006 you had a rate of return of 2.3%. In the last five years have you had a rate of return in any year of 10% or more?

Mike Jefferies replied I believe that the closest we came was in 2004 when we received the rate increase.

Councilor Canfield asked have you had a rate of return in Troutdale in the last twenty years that was 10% or more?

Mike Jefferies stated we started servicing Troutdale I believe in 1995. I believe that there have been years where we have been close to 10% and maybe a half point above, but we have not been at 10% on a consistent basis.

Councilor Canfield stated I haven't read anything in the newspapers or trend magazines that Waste Management has had trouble getting capital in the last ten years. I am just really concerned about the rates and necessity of a rate of return which we have never before had.

Adam Winston stated first and foremost is we have a contract with the City of Troutdale and we have to abide by it. Even if we didn't have that rate of return and we are losing money we have to abide by the contract.

Councilor Canfield stated I have a problem with the rates.

Councilor Kyle stated I understand that the roll carts are going to be mandatory. If someone has a condo or attached home and they need garbage service but they are not going to produce yard debris, do they still have to store a yard debris roll cart? If they are not going to need yard debris service will that amount be deducted from their bill?

Adam Winston replied that would fall under the yard debris exemption.

Councilor Kyle stated if I heard correctly Ana had some concerns and I don't know if you have addressed her concerns.

Adam Winston replied if her question was about hauling their own garbage there are facilities where folks can haul their own trash, I think Metro South is the closest.

Councilor Thomas asked with televisions having to change to digital, what do you see happening to all of the electronic waste?

Dean Kampfer replied the State Legislature just passed a bill that says that the manufactures are responsible to take them back. There is a committee working with DEQ to develop a take back program where the manufactures will cover the cost of that. Citizens will be able to take televisions, computers and monitors back to drop-off depots at no charge.

Councilor Thomas asked is that something you would do as a curb side service?

Dean Kampfer replied it could be. There is also opportunity for what they call a premium service where it is picked up curb side or it is a bulky waste item that we pick up on call.

Councilor Daoust asked if we include a desire to add a service for every other week pick-up, is that something you could develop a rate for and be willing to provide that option to customers?

Adam Winston replied yes, we can develop that if that is something that the Council would like.

Councilor Daoust stated the only thing we don't have tonight is what the rate would be, but I don't know that we need that.

Councilor Thomas stated I don't think we have clarification on the 12 year franchise. That needs to be resolved before we can adopt this.

Councilor Kight asked do we need clarification on the roll over at the end of four years.

David Ross stated I think that language needs to be clarified.

Councilor Kight asked do you feel comfortable with the Council acting on this resolution with that ambiguity at this point?

Councilor Thomas stated I don't feel comfortable without a clear definition.

David Ross stated I think what Waste Management said was that they would do whatever it takes to get within the ten years as written in our ordinance. That would mean that the four year extension would become a two year extension.

Adam Winston replied what ever it takes to get within the ten years I am good with.

Councilor Kight asked at the end of four years if we are not satisfied with the quality of service for what ever reason, at the end of the eight years potentially the contract terminates, especially if we don't roll it over another two or four years. So we still have control of the contract.

David Ross replied right, but on the other hand it is an eight year deal and at the end of four years if you have extended it another four that is twelve years.

Councilor Kight stated but four years have already passed.

Councilor Daoust stated it is still the same contract.

David Ross stated at the end of the first four years you could extend it an additional two years and then you are up to ten years.

Councilor Kight stated are you telling us that at the end of four years we couldn't renegotiate a new contract.

David Ross replied you can extend this contract.

Councilor Ripma stated or not.

Mayor Thalhofer called for a 10 minute break at 9:07pm and reconvened at 9:22pm.

MOTION: Councilor Daoust moved to adopt Resolution 4.1 approving an exclusive franchise agreement with Waste Management of Oregon to provide solid waste collection services within the City of Troutdale with a language clarification to the franchise term in Section 5, adding "not to exceed ten (10) years" and changing the 4 year term extension to a 2 year term extension; correct the typo in Section 32, second sentence, from "The Franchisee shall be..." to "The Franchisee shall have..."; add the language back in that was stricken in Section 15, Item #7 that reads, "The Franchisee shall secure receptacles in the same manner as the customer secured the receptacle to prevent receptacles from blowing away"; add language that the Franchisee will pick-up the two dumpsters at Columbia Park and Glenn Otto Park at no charge to the City. Seconded by Councilor Kight.

MOTION TO AMEND: Councilor Canfield moved to amend the motion by changing the language in Section 7, Item 6, from “Rates shall be adequate to provide an Operating Margin equal to ten percent of Franchise Gross Revenues” to “Rates shall be adequate to provide an Operating Margin equal to eight percent of Franchise Gross Revenues”. Seconded by Councilor Kyle.

Councilor Canfield stated it never hurts to ask. I am looking out for Troutdale citizens. Waste Management has never received what they are asking for and they have been able to operate and give us quality service just fine. I think 8% is a fair amount for a rate of return.

Councilor Kyle stated I believe that is what we had before and I would be comfortable if there was a range starting at 8% and I would be comfortable with 8%.

Councilor Kight stated I am caught off guard because we did not spend a lot of time discussing this. This is very complex. I don't feel comfortable. Waste Management has been very accommodating on multiple requests that the City has made. We have asked for free garbage pick up at two of the City parks plus the garbage cans in downtown and now we are coming back and saying that we don't want them to get a 10% rate of return, we want them to get an 8% rate of return. They are going to be making additional investments on roll carts, trucks and equipment. They have already indicated that their health care costs have increased. I don't think it is unreasonable for a business to get a 10% rate of return.

Councilor Ripma stated I am not in favor of this. We have discussed this in work sessions. They haven't actually reached a rate of return of 10% more than maybe once in the last twelve years. I am not in favor of the amendment.

Councilor Thomas stated 8% is actually a reasonable rate of return. I am not sure on this yet.

Mayor Thalsofer stated I am not in favor of the amendment. I think 10% is a reasonable rate of return.

Councilor Daoust stated I am not in favor of the amendment either.

VOTE ON MOTION TO AMEND:

Councilor Kight – No; Councilor Ripma – No; Councilor Thomas – Yes; Mayor Thalsofer – No; Councilor Canfield – Yes; Councilor Kyle – Yes; Councilor Daoust – No.

Motion to Amend Failed 3 - 4.

Mayor Thalsofer stated we will now speak to the main motion.

Councilor Daoust stated we talked a lot about the terms and I think we can make changes to tweak contract terms every four years. I don't think we need to worry about too much time elapsing before we can make necessary changes, that will be allowable every four years. I think the way we changed the four year extension to a two year extension meets both parties' needs. I do like the fully carted system and I like that it gives us more capacity to recycle.

Councilor Kight stated I want to compliment the staff of Waste Management. In all of the years that I have been on the Council I have yet to see a garbage provider this cooperative. Every issue that we brought up, especially the wind blown debris, you have done everything possible to make sure that it will be taken care of. This is the first time that a garbage company has ever offered to have a lid that will latch closed. There will be more opportunity for recycling with the roll cart.

Councilor Ripma stated I favor the motion. I think Waste Management has done a good job. This has been a long process for the Council. We have had multiple work sessions. It has been a lot of work for the staff trying to answer questions that we kept raising regarding different proposals and many of them were brought up here by citizens tonight. Except for Mr. Herbert's concern, I think we have discussed every other one at some length. We ended up making a compromise. The conclusion was that the carts, as big, bulky and unsightly as they might be, are better because of the wind factor and because people pile up garbage in ways that are even more unsightly. Partly it is a trust in the experience that we heard from Waste Management that people do develop an infection for these carts and use them. It could be that people will end up paying less for their garbage if they downsize their roll cart for garbage. We even discussed letting people buy their own containers and in the end we concluded that it was logical that they needed to use the containers provided by Waste Management. We will see how this goes.

Councilor Thomas stated I would like to compliment staff and Waste Management for putting together a very good franchise agreement that covers all of the basis. My biggest complaint about the whole thing is the exclusive franchise and based on that I can't support the franchise. I really believe in competition and I think the exclusive franchise does competition a disservice.

Mayor Thalsofer stated I support the motion. I am going to go along with these roll carts which I really don't like because they are so bulky and they are going to be hard for folks to store them. I think the addition of the every other week service is very important for some people. We have had several work session on this issue. We had folks here this evening to tell us their concerns, which is what these hearings are for and we appreciate the comments. When we have wind in Troutdale, which is about four or five months out of the year, it blows a lot of trash around our community. If that weren't the case I probably wouldn't go along with this but that is the case and I would rather see the trash inside these roll carts than blowing around the city.

Councilor Canfield stated about a year ago we had the perfect storm and I posted a lot of pictures on my blog of the perfect storm. It was a mess; there were bins and garbage cans rolling down the street. There were animals and birds picking at the hefty bags in the middle of the street. Big pieces of cardboard blowing around like sails. It was a mess. Some of you recall some of the comments that we received from folks that day. I think that Waste Management and the City of Troutdale have decided we need to do something about it. If it weren't for the problem of the wind blown garbage I probably wouldn't be in favor of this but it is a good solution especially with the bungee cord that will hold the lid shut. Even if the wind blows the can over, which will happen, the garbage will stay inside. About the only part of this that we need to work on is we need to add language to our Code for enforcement against those who still put loose garbage out. To me it is a public safety issue to keep the garbage secure. Having said that, I don't agree with the rate of return. I don't think it is necessary; it is too much. It is one of the disadvantages of not putting this franchise out for an RFP, which I advocated for but the majority of the Council decided they didn't want to do that. One of the problems of not putting something out for competition is you get someone asking for an incredibly large rate of return and it is not to the advantage of the ratepayer in Troutdale. Because of that I am going to vote against this.

Councilor Kyle stated I am going to support the motion. I didn't like the idea of mandatory roll carts but I do like the idea of more recycling, I think that is important to us.

VOTE ON MAIN MOTION:

Councilor Kight – Yes; Councilor Ripma – Yes; Councilor Thomas – No; Mayor Thalhofer – Yes; Councilor Canfield – No; Councilor Kyle – Yes; Councilor Daoust – Yes.

Motion Passed 5 - 2.

MOTION: Councilor Daoust moved to adopt Resolution 4.2 establishing solid waste collection fees in conjunction with the franchise agreement with Waste Management of Oregon and repealing Resolutions No. 1682 and 1800 with the addition that customers will have available an option for “every other week garbage service” with a rate that is lower than the weekly service rate. Seconded by Councilor Thomas.

Councilor Daoust stated increasing the garbage rate could be the most contentious part of this. I thought long and hard about this but the conclusion I came to after discussing this was that the customers, both residential and commercial, can manage their bill. It makes it sound like everything is structured and you have to buy off on one, but that is really not the case. People can manage their bill. They can reduce their cost by having a yard debris exemption, they can have on-call service, they can go to monthly service, they can have every other week service, they can

recycle more and they can cancel service as long as they take care of their garbage some other way. There are five or six ways folks can reduce their costs. They can also reduce the size of their containers if they want to. When you take all of that into account and even with a 10% rate of return the rates are comparable with other cities. I am okay with the resolution and the rates being proposed.

Councilor Thomas stated initially I wasn't sure I wanted to support the increase. After looking at what I currently pay, if I add the recycle cart I would be looking at about a \$2 increase per month. With the addition of the every other week service it allows folks to gage their rates which helps address my concerns about people on fixed incomes having a way to control their costs. I think that what Waste Management has come up with is a good plan and they appear to be taking everything into consideration and trying to keep those rates as low as possible.

Councilor Kight stated I think Councilor Daoust articulated very well that everyone is going to be in charge of their own garbage rates. The more they recycle the less garbage they will have and they can go to a smaller container and less frequent service. This has a lot of flexibility.

Councilor Ripma stated I support the rate structure for the reasons already stated. It is very flexible. I am pleased that we have added a special pick up rate for large items, which is something that I have been wanting for years. Regarding the issue of having others bid on the contract, I want to mention that was also a subject that was a great debate by the council. I always favor competition but one reason that I, in the end, did not favor that was because it wasn't that easy to do and it would have been very expensive. We need to have a waste hauler who is responsible, who handles it in a lawful way, and complies with DEQ and Metro. You could end up with a hauler with no experience. It was going to take a lot of staff time to figure out how to assess the bidders and a process that would have to be managed. We have been generally happy, and the citizens have been generally happy with Waste Management, that is why we did not do it. I think Waste Management has worked well with the City for many years. They have been generous at City events and they provide good service.

Mayor Thalhoffer stated I am going to support the motion for all of the reasons already articulated.

Councilor Canfield stated I am going to vote against the motion. I have no problem with Waste Management as a company; they have been very good to Troutdale. However, the rate increases are excessive. I believe this is because we did not put this out for bid. Competition would have put some pressure on Waste Management to decrease their rates. It is interesting to note that the revenue that Waste Management is receiving from Troutdale is about \$2 million per year. If you look at the life of this contract that is \$20 million and this Council was not even willing to spend \$50,000 to put this out for bid to possibly get better rates. Keep in mind that the urban renewal project is a little over \$10 million, we have already spent several hundred thousand dollars in studies.

Councilor Kyle stated I am going to support the motion. I don't like the rate increases but I do like the fact that we have a flexible fee structure. I can see where personally if we do some recycling I think it will cut down our costs for garbage service.

VOTE: Councilor Kight – Yes; Councilor Ripma – Yes; Councilor Thomas – Yes; Mayor Thalhofer – Yes; Councilor Canfield – No; Councilor Kyle – Yes; Councilor Daoust – Yes.

Motion Passed 6 - 1.

5. DISCUSSION: A discussion regarding the barrier along Sedona Park subdivision and 257th Avenue.

Kim Peoples and Brian Vincent from Multnomah County updated the Council on their progress addressing the safety concerns on 257th and Sturges and the Sedona Park subdivision. We met with the citizens of Sedona Park to hear their concerns and discuss some alternatives on October 3rd (only four residents attended the meeting). We presented five alternatives which included a concrete barrier, a sound wall, guardrail, earthen berm and a concrete wall. For various reasons, and existing restraints, the alternative that the County is recommending is the standard concrete barrier. On October 9th we sent a letter to all of the residents of Sedona Park which summarized the meeting and outlined our recommendation. In that letter we also asked the residents to contact us with any concerns and/or questions. We received no such contact. We then proceeded and sent a letter to the five property owners that adjoin 257th advising them of what had transpired and asking them for permission to place the concrete barrier on the street side of their fences. To date we have only heard from three of the five property owners. Before we can proceed we need permission from all five property owners.

Councilor Kight asked is there a deadline that the property owners have to respond to you by?

Brian Vincent replied no, we left that open-ended.

Councilor Kight asked have you chosen the particular product that you are going to use?

Brian Vincent replied the chosen product is what we call a standard concrete barrier. It is the same product that is used along the freeways.

Councilor Kight stated also called a jersey barrier.

Brian Vincent replied yes.

Councilor Kight asked have you determined what size you are going to use?

Brian Vincent replied yes. There are two primary sizes of the jersey barrier. The standard one is a 32" height and that is commonly available and used. The larger one is 42" tall.

Unfortunately with that larger size it is also a wider footprint. The only place we can place this is constrained with a 28" gap between the fence and the power poles. This larger barrier is 26" at the base. By the time you consider the curvature of the road and fence and the 12' straight length of the barrier, it physically can not be placed.

Councilor Kight stated so you are down to the 32" barrier. Will the 32" barrier protect those properties from vehicle penetration?

Brian Vincent replied that is the intent of those barriers.

Councilor Kight asked in addition to the jersey walls is there any consideration for putting some kind of reflective stripping on the jersey walls?

Brian Vincent replied we have considered that but we have not made a finale decision on what we are going to do, but that is certainly an easy thing to add.

Councilor Kight asked did I understand correctly that you are not considering anchoring the jersey barriers together, they are going to be free form?

Brian Vincent replied I misspoke previously. We will employ the jersey barriers exactly as they are design and there will be a pin that interlocks each piece together and in addition they are secured to whatever foundation system you have by pin, in this case into the ground.

Councilor Ripma stated it seems like a very good solution.

Councilor Thomas stated I am glad to hear the clarification on how they will be pinned together.

Mayor Thalsofer stated thank you for the work that you have done on this.

Councilor Canfield stated thank you for cooperating with the neighborhood and asking their opinions. In the event that you don't get volunteer permission to place the barrier, have you considered involuntary methods?

Brian Vincent replied we have not thought that far forward and I hope that is does not come to that. What you are suggesting is some form of a condemnation process.

Scott Clayton, DA Gray, stated our conditions of approval for our development specify a guardrail. If we install a concrete barrier instead of a guardrail will that satisfy our condition?

Council agreed that a concrete barrier would satisfy that condition of approval.

Catherine Bents voiced concerns about allowing construction to continue (Tyson's Place) without the guardrail or barrier in place since that was a condition of the approval. If the

County can't get the last two residents (in Sedona Park) to agree to the barriers will the construction be delayed?

Council's consensus was that construction of Tyson's Place would not be delayed.

John Anderson clarified that these are two separate issues. If the County can not get all five property owners to agree to the barriers, that does not stop DA Gray from going forward and installing the barriers in lieu of the guardrail on their property.

6. STAFF COMMUNICATIONS

None.

7. COUNCIL COMMUNICATIONS

Councilor Kyle was contacted by a resident that lives on the south side of 2nd Street where the Tri-Met busses have been moved to and claims that the fumes from the buses are making him sick. If construction of the Discovery Block is not going to start in the near future, is it possible to move the busses back to the north side of 2nd Street?

John Anderson replied I have been in contact with that resident and I have been in touch with Tri-Met. Tri-Met has indicated a willingness to move back to the north side for the interim. We are working on this issue.

8. ADJOURNMENT:

MOTION: Councilor Ripma moved to adjourn. Seconded by Councilor Canfield. Motion passed unanimously.

Meeting adjourned at 10:25pm.

Paul Thalhofer, Mayor

Approved February 12, 2008

ATTEST:

Debbie Stickney, City Recorder