



Taxation, Revenue and Utilization of Expenditures (TRUE) Commission

John Palombi, Chair
Wes Benwick, Vice Chair
Greg Anderson, Secretary

RESOLUTION 2009-2

WHEREAS, Mayor Peyton has proposed and the City Council is currently considering a proposal to extend a renegotiated contract between the City and Waste Management Inc. for operation of the Trail Ridge Landfill for an additional 25-30 years until the full disposal capacity of the 978-acre Trail Ridge site is reached; and

WHEREAS, the ordinance (2008-538) proposing to authorize the contract extension would also waive the City's procurement code for the purpose of allowing the contract to be extended without a normally-required competitive bidding process; and

WHEREAS, the TRUE Commission has discussed the proposed contract extension at four different meetings, has heard presentations on various aspects of the proposed contract extension and on the operation of the landfill in general from the City Council Auditor, representatives of the Mayor's Office and the City Solid Waste Division, and from City Council Member Jack Webb, and all commissioners have been provided with copies of the General Counsel's legal opinion on the various aspects of procurement procedures and potential legal challenges that surround the proposal and that have been much-debated in the news media in recent months; and

WHEREAS, the TRUE Commission, as an appointed body of interested citizens charged with providing advice, counsel and a citizen perspective to the Mayor and City Council on matters of City finance and operations, feels that this contract proposal, reportedly worth up to \$750 million over 30 years to the company to which it is awarded, is deserving of the commission's investigation and of a formal statement of position; and

WHEREAS, the commission recognizes that there are good and persuasive arguments for taking any of several different potential courses of action, and that there are a variety of fiscal consequences, both short term and long term, regardless of which course of action the City Council chooses; and

WHEREAS, the commission also recognizes that there may be a variety of legal challenges posed by several different parties regardless of which course of action the City Council chooses; and

WHEREAS, one factor that carried great weight with the commissioners, having previously done a study in this area, was the desire to see the City's procurement ordinance and standard procedures respected and the principle of competitive bidding upheld for perhaps one of

the biggest contracts in the history of City procurement in order to maintain the maximum degree of public confidence in the integrity of the City's procurement process; now therefore

BE IT RESOLVED that the TRUE Commission hereby makes the following three-part recommendation to the Mayor and City Council regarding the Trail Ridge Landfill operating contract extension proposed in pending Ordinance 2008-538:

- The TRUE Commission recommends that the requested waiver of the procurement code be denied;
- The TRUE Commission recommends that the City seek definitive clarification of the outstanding legal questions, to the greatest extent possible, in order to remove ambiguity and enable better decision making; and
- The TRUE Commission recommends that the City take the remaining time available under the current landfill operations contract to study alternative waste disposal options, including the possibility of the City operating the landfill itself after the expiration of the current operations contract, and to undertake the necessary preparatory steps (engineering, design, permitting, etc.) to be ready to implement a new arrangement when the current contract expires.

BE IT FURTHER RESOLVED that the TRUE Commission wishes to express its thanks to the various City staff – Council Auditor's Office, Mayor's Office, Environmental and Compliance Department, and City Council Research Division – who acted as resources to the commission during its deliberations and provided substantial amounts of very useful analysis and factual information that permitted the commission to make a well-reasoned examination of all the issues.

Adopted by vote of the Commission this 20th day of April, 2009.

John Palombi, Chairman