



Taxation, Revenue, and Utilization of Expenditures (TRUE) Commission

John Palombi, Chair

Wes Benwick, Vice Chair

Greg Anderson, Secretary

Revised Meeting Minutes

March 5, 2009

4:00 p.m.

Attendance: John Palombi (Chair), Joe Andrews, Ron Mallett, Greg Anderson, Elaine Burnett, Steve Jarecki, Marcella Lowe, Wes Benwick, Mark Cowart, Robert Jones, Louvenia Tippins

Excused: Randy Deen, Nicole Lester

The meeting convened at 4:05 p.m. with a quorum present.

Minutes

The minutes of the February 5, 2009 meeting were **amended** to reflect several minor word changes in the summary of the report given by Commissioner Burnett of her meeting with representatives of the Sheriff's Office. The minutes were **approved as amended**.

Personal Appearance: Derek Igou, Deputy Director of the City's Environmental and Compliance Department and the City's new "sustainability coordinator" made a presentation on the new green building initiative created by pending Ordinance 2009-211. The ordinance would implement several facets of the Mayor's recent "green" executive order and related state laws. The \$1,000 cash rebate and a fast-track permitting process are intended to incentivize private builders to seek national LEED (Leadership in Energy and Environmental Design) or Florida Green Building Coalition state certification of the energy efficiency and environmentally friendly design and construction of their buildings. The \$1000 figure was chosen for the incentive to make it large enough to be worth the effort of obtaining, but small enough that the \$100,000 allocation could be spread widely over a large number of projects in the hopes that it would attract the community's attention and publicize the effort.

In answer to a question from the commission, Shannon Eller of the General Counsel's Office described the authorized uses of the Environmental Protection Fund that is being used as the funding source for the incentives and stated that alternative uses may and have been approved by the Council for projects deemed to be compatible with the spirit and intent of the fund. The fund currently has a balance of approximately \$400,000. There is no need to codify this particular use yet, but if it proves popular and is determined to be a valid on-going use of the fund then it may be codified at a later time. The commission thanked Mr. Igou for his presentation and wished him success with the City's green initiatives.

Personal Appearance: Kyle Billy of the Council Auditor's Office briefed the commission on the pending Trail Ridge Landfill operating contract extension proposal. The Auditor's Office has been researching the issue at the request of the Council President and will release its formal report next week. The City owns the 978-acre Trail Ridge site on the city's western border on the Baker County line, of which the first operating cell comprises 144 acres. Approximately 12.5 million tons of waste has been disposed of at the site since the early 1990s and the site has approximately 5-7 years of capacity remaining at the current disposal rate, so permitting for the construction of the next cell needs to begin shortly in order to have disposal capacity ready and waiting when the current cell is filled up.

The Auditor's Office tried to evaluate and financially compare three options for proceeding: 1) extend the existing operating contract with Waste Management Inc. (WM) for the life of the landfill site; 2) open up the landfill operation for competitive bidding for the next cell; or 3) the City could operate the landfill in-house as it did prior to the 1990s.

Bidding the contract out could and probably should produce a different agreement than the one the City and WM have negotiated. One of the benefits of opening the process up for bidding would be the opportunity for the City to determine exactly what it wants in the operations agreement and bid that specific set of specs rather than working by means of alterations from the baseline of an existing agreement that has been negotiated and interpreted over a period of years.

The Auditor's Office's had several specific concerns with the proposed WM contract extension:

- 1) WM's costs still seem to be a little high compared to other landfills they've studied; they think WM's proposed tipping fee of \$10.21 needs to be reduced further (to about \$9.95) to account for the City's direct, non-taxable purchase of the fuel for the landfill machinery.
- 2) They would want to see the CPI adjustment capped so that a couple of years of high inflation early in the contract period don't artificially skew the baseline upward so that the City would be paying higher prices for 30-40 years based on a couple of non-typical years. They suggest a cap of 3.55% per year, which is the average of the CPI over a ~~30-20~~-year period.
- 3) They would want to see the contract include a built-in periodic rate review process like the arrangement we have with the contract waste haulers, which seems to work pretty well. It ensures that the companies make a fair but not excessive rate of return and provides a mechanism for dealing with changing conditions and costs that will inevitably take place over a contract period of many years.
- 4) They would prefer to see the WM landfill purchase option taken out of the deal. It is vital that the City keep control of this major asset, which might well be the last sanitary landfill ever permitted in the City.

In response to a question about the rumored lawsuits by either Waste Management or other potential bidders, depending on whether the City bids the contract or not, Mr. Billy Sherman stated that the Office of General Counsel released a report last week saying that the City has a strong position and would likely win if it comes to a court fight, but it's possible that either 1) the City might unexpectedly lose the case, or 2) the process of fighting appeals could drag out for years and cost a great deal of money while landfill capacity runs out. Therefore the OGC thinks that taking the current WM deal seems like the best option. Kirk Sherman stated that if the Council elects to go with the WM extension instead of a bidding process, he would recommend making several improvements to the deal as it now stands.

How does WM's proposed tipping fee compare with other landfills in the state? It's hard to say because true "apples-to-apples" comparisons among landfill tipping fees are difficult to achieve because every one seems to calculate things a little differently. There are also relatively few comparables to Trail Ridge – there are a few landfills that are much larger than ours, and many that are much smaller. Overall

the WM proposed rate seems to be a good rate, below the midpoint of the comparables they've looked at.

Commissioner Jones departed at 4:50 p.m.

How often should a rate review process take place? The City currently does it every 3 years with the waste haulers on 9-year contracts. Every 5 years would probably be acceptable on a 30-40 year contract. Does anyone else in Florida have a "life of site" contract like is being contemplated here? There may be one that is comparable. What is the City's general rule on bidding contracts? Mr. Sherman thinks the threshold is \$50,000, above which bidding must take place. Can the Council waive the requirement to bid the contract? The OGC has issued an opinion saying it can.

Most expensive option: continue on with the terms of the existing WM contract beyond the present site until the full 42 million ton capacity of waste is deposited in the landfill;

Middle option: take WM's proposed deal and extend the contract for the life of site at the lower tipping fee;

Least expensive option: the City operates the landfill in-house as it used to do (eliminates the contractor's profit margin, taxable transactions, etc.). Mr. Sherman cautioned that if the City runs the landfill itself then it has to do it right and not skimp on spending what it takes to run a first-class operation. Budget problems, hiring freezes, and other considerations can't be allowed to affect the landfill's operations. As an example, if \$200,000 a year is the going rate for a competent landfill manager, then that's what you have to pay regardless of how that might be perceived in the community.

Where does ultimate liability lie for the landfill site? Since the City is the owner the ultimate liability lies with us, no matter what a contract may say. As the City found out with the ash sites, the Florida DEP and US EPA will ultimately find the City to be a responsible party if anything ever goes wrong, either because our waste was dumped there (regardless of who actually ran the landfill at the time) or because we still exist as a corporate entity with deep pockets to pay for cleanup and settlements. Private corporations come and go, but the City will always be there to be on the hook to pay the bills.

Committee Reports

Legislative Tracking Committee – Commissioner Benwick reported that the committee is developing a reporting format. The committee looked at the following bills last week: 1) from a previous meeting, the \$300,000 appropriation for a retention pond site; 2) a grant and loan from the Northwest Jacksonville Economic Development Fund for a commercial truck wash project (deferred in Council as a result of questions raised by the Council Auditor's Office); 3) a \$1.5 million appropriation to SMG (the contract operator of the City's public assembly facilities) for maintenance and repairs on all the facilities; 4) the process for prioritizing applications for Florida Inland Navigation District (FIND) grant funds; 5) the \$100,000 appropriation for the green building initiative discussed earlier by Mr. Igou; 6) the Philips Highway mulch site lease extension; and 7) the new auto allowance/fleet vehicle policy. Commissioner Burnett noted that the City adopted a policy several years ago that prohibited use of the name Northwest *Quadrant*, which had acquired a negative reputation, and urged the use of the preferred term Northwest *Area* by the commission.

Commissioner Tippins departed at 5:10.

Performance Committee – Commissioner Anderson reported that the committee met earlier in the day with City Inspector General Pam Markham to discuss her office's work in mapping procurement and contracting processes. The office appears to be doing good work within the confines of its constrained resources. The committee also discussed its February 19th meeting with Kevin Holzendorf and his staff at

the Information Technology Department. Commissioner Jarecki stated that ITD seems to be on the right track in many areas and the committee is looking forward to continued involvement with and cooperation from the department. The committee feels there may be areas where ITD could save money through operational improvements.

Long Term Fiscal Health Committee – Commissioner Andrews reported that the committee had met twice in the past month, and that he continues to attend the weekly meetings of the JCCI “Our City, Our Money” study. The committee will meet again next week to review the first draft of the JCCI study group’s report to see how it may be of use to the TRUE committee. Commissioner Palombi state that he had also met with the Auditor’s Office for more information on the pension plans’ unfunded liabilities.

Auditor’s Report

Kirk Sherman reported that his office is working on two very large and time-consuming issues at present – the Trail Ridge Landfill contract extension proposal and the Special Committee on City Pension Reform. The first quarter budget review for FY08-08 was released and showed a revenue deficit of \$7 million thus far, but this is being more than offset by expenditure reductions of \$17.5 million below projections. The JEA is drastically scaling back its capital expenditures by \$300 million, deferring anything that is discretionary or non-essential. Mr. Sherman reported that his staff had a number of questions about the Northwest Area Economic Development Fund’s proposed grant and loan to Cedar Grove Inc. for a truck wash project, a project also identified by the commission’s Legislative Tracking Committee as needing further research and inquiries. He applauded the TRUE Commission for looking at pending legislation and identifying potential items of interest early in the process.

Chair’s Comments

Chairman Palombi stressed the need for active involvement in the committee process where the real work of the commission gets done, and encouraged all commissioners to volunteer for at least one of the standing committees, all of which need additional manpower to do their work properly.

Old Business

None

Commissioner Benwick departed at 5:41 p.m.

New Business

Commissioner Andrews distributed a draft letter expressing the TRUE Commission’s recommendation that the City Council refrain from attempting to prevent the JEA from closing its 5 satellite offices (the subject of pending City Council resolutions 2009-197 and -198) and commending the JEA for attempting to operate in a business-like manner in an economically challenging time. Chairman Palombi suggested that the commission find out from JEA about the locations of the 90 or so alternative payment locations (generally convenience stores) and condition the approval of the Andrews letter on at least some of those alternative payment locations being within walking distance of each of the 5 satellite offices. Commission staff member Jeff Clements noted that the two pending resolutions oppose the closing of the satellite offices at least in part because they provide JEA customers with locations where customers can meet directly with JEA employees and can transact business other than simple payments (service cut-on or cut-off, change of address, negotiation of a payment plan, etc.). Commissioner Burnett felt that while the closure of the satellite offices may save JEA some money, the closures do not support the communities in which those offices are located, some of which (the office in the Gateway area, for example) serve as hubs for community activity.

MOTION: Mr. Andrews moved approval of the transmittal of the letter expressing opposition to pending resolutions 2009-197 and 2009-198, contingent upon the commission obtaining information from the JEA on the

location of the alternative payment sites and at least some of those sites being within walking distance of the 5 existing JEA satellite offices. The motion was **approved**.

Commissioner Comments

Chairman Palombi recognized pending commissioner appointees Ruth Arnold and Jason Fischer in the audience, along with Thomas Martin whose appointment resolution should be introduced shortly.

Public Comments

- Thomas Martin wondered if there were costs to either the JEA or to JEA customers of using the 90 alternative payment locations. He had cause recently to use one of the JEA satellite locations to pay a bill and was unaware that there were alternative payment locations throughout the city, since only the 5 JEA satellites are listed as payment locations on the JEA bill.
- Jason Fischer stated that his appointment resolution was recommended for approval at the Rules Committee meeting last Monday, so he should be seated for the April meeting.
- Ruth Arnold stated that her appointment resolution was also approved at the last Rules Committee meeting so should also be approved at the next Council meeting. Unfortunately she will be out of town for the April commission meeting, so will not be joining the group until the May meeting.

Next meeting

The commission's next meeting is scheduled for Thursday, April 2nd at 4:00 p.m.

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

Posted 3.20.09
9:45 a.m.

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