

Meeting was called to order at 8:02 p.m. by Mayor Seiler on the above date, in City Hall, 100 North Andrews Avenue, 1st floor Chambers.

Roll call showed:

Present: Mayor John P. "Jack" Seiler
Vice Mayor Charlotte E. Rodstrom
Commissioner Bruce G. Roberts
Commissioner Bobby B. DuBose
Commissioner Romney Rogers

Absent: None.

Also Present: City Manager Lee R. Feldman
City Auditor John Herbst
Senior Asst. City Clerk Jeffrey Modarelli
City Attorney Harry A. Stewart

Albert Carbon, Director of Public Works, reviewed portions of commission agenda memoranda for each agenda item as well as slides. A copy of the slides is attached to these minutes.

BUS-1 - Proposed Interlocal Agreement (ILA) for Solid Waste Disposal Support

Albert Carbon, Director of Public Works, reviewed information in Commission Agenda Memorandum 12-2272.

Mayor Seiler opened the floor for public comment.

Vicki Eckels, Fort Lauderdale resident, asked about criteria including a sustainable component. She also questioned a ten-year period of time for a contract.

With respect to a ten-year guaranteed time period, the City Manager explained that a longer period of time, allows for capital costs to be amortized. As to considering sustainability, one purpose of this evening is to discuss criteria.

William Roberts of Wheelabrator Environmental also responded to Ms. Eckels' questions with respect to time period and sustainability.

The following information was provided in response to the Commission's questions: The City Manager advised that the 42,000 tons in the memorandum is this past year's residential volume. From a budgetary standpoint, he felt it is necessary to continue to use this number until there is some experience under the single-stream approach. The tonnage should go down. Mr. Carbon advised the recycling quantity for last year was around 10,000. The cost per ton would remain consistent regardless of the tonnage. Under the new interlocal agreement with Broward County, there are a la carte services. Staff recommends two, as shown in the memorandum (centralized billing and flow control enforcement). Elliot Auerhahn, Director of Solid Waste and Recycling Services, listed the a la carte or option services being offered by the County.

George Platt of LSN Partners, representing Sun-Bergeron, JV, spoke about the volume of Fort Lauderdale in comparison to other communities and whether a RFP process or an existing processes that has already taken place in the county by the City of Miramar should be used. Because Sun-Bergeron cannot vary from the Miramar pricing (most favored nations provision), they have offered other rebates in letters to the City Manager. Between the time that the City Manager was directed to hire a consultant to draft an RFP and today, two other independent processes have taken place. No other entities other those that are already before the City have the capacity level to offer a proposal. Therefore, he urged the Commission to choose the Miramar process and Sun-Bergeron or negotiate with the two companies. As to the City's eighteen acres, ReCommunity (Mr. Platt also represents) would be interested in five acres. Further he suggested the City address use of the acreage during negotiations. As to the time period, if the City chose the Miramar contract, it could extend at any time and achieve a ten-year period. Lastly there is the City Manager's desire to have two companies. The City would need to look into how this could be accomplished. He went on to point out time constraints and urged the matter be moved as quickly as possible.

In response to Vice Mayor Rodstrom, Mr. Platt confirmed that with rebates Sun-Bergeron would offer, Fort Lauderdale could receive a better price than that offered by Wheelabrator.

Philip Medico, Jr., representing Sun-Bergeron indicated he is available for questions. Sun-Bergeron has a contract with Broward County and one with the City of Miramar.

William Roberts, representing Wheelabrator Environmental, noted that the Sun-Bergeron contract allows Sun-Bergeron, after the first year, to request a rate increase based upon their cost of operations. If it is not granted, they may terminate. It is essentially an eighteen month contract and subsequently, every six months. There are no such termination provisions in the Wheelabrator contract. Nothing prevents Sun-Bergeron from lowering their rate for both Fort Lauderdale and Miramar. Wheelabrator's price is lower than Sun-Bergeron. Wheelabrator's renewal is unilateral whereas Sun-Bergeron is mutual. There are no unusual conditions clauses. Wheelabrator will stand by its most favored nations clause and provide the City with the same pricing offered to any other city. As to the rebates offered by Sun-Bergeron, he noted they were not raised during negotiations. He questioned when negotiations come to a conclusion, otherwise Wheelabrator would like the same opportunity. Sun-Bergeron has not quantified the rebates. He responded to Mayor Seiler's question as to pricing Wheelabrator offered to Miramar. It was a five-year term with three, five-year unilateral renewals or twenty years, therefore the pricing was adjusted up from that provided to the Resource Recovery Board of \$47 per ton (base cost). The Miramar contract is very different from what was originally in the bid. When the sealed bids were opened, Wheelabrator was the low bidder. It then changed to a competitive negotiation which is why it led to litigation. He went on to comment on the positive features of their proposal. Wheelabrator is interested in speaking with the City about their vacant land.

Joe Goldstein of Shutts and Bowen, representing Sun-Bergeron, indicated Miramar followed their procurement code's best and final offer provision and elaborated upon what transpired in Miramar by Wheelabrator. He also discussed their unusual conditions clauses, noting it has to be something beyond Sun-Bergeron's control, supported by audited financial statements and six-month notice is required. If more cities do not sign up with Sun-Bergeron, they will not be able to compete in five years.

There was no one else wishing to speak.

The following information was provided in response to the Commission's questions: The City Attorney explained an invitation to bid process including a best and final offer. He did not know that the City's property could be tied to this process. The Charter speaks specifically about the disposal of City-owned property. Mayor Seiler suggested a lease. The City Attorney did not think it could be limited to a particular use. Another party may have a totally different use and a higher lease rate. The City may not want the use. The City Manager indicated that the draft RFP not yet reviewed by the City Attorney has a question of: How much land would you lease and what would you pay for it? The City Attorney did not know that it could be done. He has not reviewed this point and not been involved in the process. Discussion then turned to the timeline and how to make use of the property. Commissioner Roberts referred to the most favored nations provision and indicated he felt an RFP would be a win/win. He also commented that best use of the land seems to be a never-ending question. Commissioner Rogers also felt it would be best to go forward with an RFP. As to the property, the City Manager noted that Dania Beach has land use and zoning over the property. Elliott Auerhahn, Director of Solid Waste and Recycling Services, advised that the City may make use of the interlocal agreement with Broward County until July. As to piggybacking the Miramar contract, the City Attorney indicated it is not possible to then change the contract to fit into what the City would want. It must be the same service and quantity or very similar. None of the terms that would affect the competitive nature of the contract could be changed. The City Manager advised that Fort Lauderdale's tonnage is about three times that of Miramar. Mayor Seiler recommended an RFP be issued as quickly as possible. Vice Mayor Rodstrom expressed favor in piggybacking.

There was consensus approval to issue an RFP.

BUS-2 - City Request for Proposal (RFP) for Solid Waste Service

Mayor Seiler felt there should be some weight to sustainability as described by Ms. Eckels, but he did not know to what extent. Albert Carbon, Director of Public Works, brought attention to the City's Sustainability Action Plan that contains solid waste and recycling goals and objectives. The goals and objectives could be inserted in the RFP. Commissioner Rogers noted a cost/benefit factor be applied to the goals before the RFP is completed. Both Commissioner Roberts and Mayor Seiler favored a ten-year term. In response to the City Manager, Mayor Seiler indicated that he has no concerns about the staying power of either Wheelabrator or Sun-Bergeron or any of the competitors.

Mayor Seiler opened the floor for public comment.

Mr. Roberts indicated that Wheelabrator's offer was for ten years.

Ali Waldman, representing Sun-Bergeron, preferred five years. Because of emerging technologies and markets, she felt the City should have an opportunity to review the contract after five years. Mr. Medeco, representing Sun-Bergeron, indicated because there are emerging technologies, a five-year contract with a five-year renewal makes the best sense.

Bernardo Valle of Waste Services of Florida explained that a longer term allows for capital investment amortization. Also, Waste Services could make use of the City's land. Waste Services is the third largest in Florida and owner of the largest privately owned landfill. Sun-Bergeron has asked about utilizing their landfill (St. Cloud) for their disposal therefore dealing directly with Waste Services would be cutting out the middle man. They would prefer a ten-year period of time. Waste Services' U.S. headquarters is in Weston; and is also located in Canada.

They are a subsidiary of Progressive Waste Solution in Canada (previously Browning Ferris Industries). He went on to explain why they did not bid for Miramar's service.

Mr. Medeco confirmed that Sun-Bergeron will use Waste Services' landfill during the interim in order to compete against Wheelabrator. He advised that the Solid Waste Authority of Palm Beach County's new facility will be operational in 2015. They are negotiating for rates with Sun-Bergeron. He elaborated upon some of the industry's features that play into the competition. Sun-Bergeron's rates are based on supply and demand. A ten-year contract creates another monopoly. The disposal market is changing.

In response to Commissioner DuBose, the City Manager indicated the RFP would be crafted as a menu in order to get the best price for each category, but there may be some trade-off if a bidder wants to provide all of the business. Therefore, he wanted to allow bidders to submit multiple proposals. Discussion ensued on how the RFP would be structured.

Mr. Platt felt a menu or ala carte approach makes sense. In response to Mayor Seiler, Mr. Platt indicated it is not his place to speak about whether Sun-Bergeron would join other companies to provide all services in one contract.

Mr. Roberts commented if the City would like a company to take on the City's eighteen acres and invest significant capital, it is obvious that such cost would need to be spread over a period of time. A five-year contract would not afford for such an investment and emerging technologies will not be possible because they cost a lot of money. He felt there should be clear rules on how the variables will be evaluated.

Mr. Valle advised that all of the services or some services according to a menu/ala carte approach.

Mr. Auerhahn suggested the City check with Weston who just received bids for all services. Bob Hely of Republic Services shared what he knew about Weston's process, indicating there were four responses. He went on to comment that Republic does not have the ability at this time to provide all services and therefore would appreciate a menu or ala carte approach which he felt would be the most cost-effective. They would be interested in the property. Mr. Valle noted the companies that responded to the Weston bid.

Ms. Eckels commented that a bid for all services may offer the lowest price, but it may not be the best in every category. She supported going out to bid and being able to compare apples to apples for each category of service.

There was no one else wishing to speak.

Commissioner Roberts favored the menu/ala carte approach. Commissioner DuBose did not see how there could truly be an apples to apples comparison. The City Manager felt it would be easier for staff to make a recommendation if they look at each category individually and ask all of the bidders to provide the best price. Some economies of scale may be forfeited but in the long run, it may be the best from a transparency and evaluation standpoint. Commissioner DuBose was not comfortable and wanted to hear from the City Attorney. In response to Vice Mayor Rodstrom, the City Manager advised that the County's interlocal agreement (pricing) will be available to the City until July 3, 2013. Vice Mayor Rodstrom wanted to reserve the ability to not go with a menu approach. The City Attorney did not think that would be a problem. The City

Attorney confirmed for Mayor Seiler that a term of five or ten years could be part of the menu approach.

There was consensus approach to use a cafeteria (menu/ala carte) approach.

BUS-3 - Proposed Interlocal Agreement for Optional Solid Waste Services

Albert Carbon, Director of Public Works, highlighted information in Commission Agenda Memorandum 12-2269.

Mayor Seiler opened the floor for public comment.

Elliot Auerhahn, Director of Solid Waste and Recycling Services, announced a countywide staff workshop on this topic this Monday and requested this item be deferred until after the workshop. The deadline for a decision to opt into any of the optional services is December 31st. In response to Mayor Seiler, Mr. Auerhahn advised that the cost is per capita for the county. Therefore, the cost will not increase if every city does not participate.

There was no one else wishing to speak.

Commissioner Roberts indicated he would be interested in a closer location for Fort Lauderdale residents.

With respect to Household Hazardous Waste service, the City Manager noted that this may be an item offered by bidders to the City's RFP and mentioned that Sun-Bergeron offered it in their letter of today to the City. Mayor Seiler requested staff raise the concern about conflicting deadlines on the County's optional services being offered and the City's RFP timeline.

With respect to Bulk Trash and Yard Waste Drop Off Program, Mr. Carbon noted this service is currently provided to single family residential, but not multi-family. There does not appear to be a cost-benefit. He agreed to raise this matter at the Monday workshop. The City Manager clarified that the single family category includes multi-family of up to four units. Multi-family above four units have commercial contracts that they negotiate. The monthly service fee for single family and multi-family up to four units includes this service whereas there is no revenue stream for bulk trash and yard waste with respect to multi-family above four units. In response to Commissioner DuBose, it was noted that most of the time bulk trash and yard waste for multi-family (above four units) is handled through their onsite dumpster.

Points raised concerning the optional services will be raised at the County's workshop on Monday.

BUS-4 - Proposed Interlocal Agreement for Recyclables Materials Recovery

The City Manager drew attention to and elaborated about the City's position concerning the ten percent program support fee that will be retained by Broward County shown in Commission Agenda Memorandum 12-2268. He has suggested to the County Administrator that five percent would be more equitable for Fort Lauderdale, but has not received a favorable response. The City has until October 15 to decide whether to join. Otherwise, this would be part of the City's RFP. The County needs cities that represent at least fifty percent of the population to sign on. In his discussion with the Assistant to the County Administrator, Alphonso Jefferson, Jr., they have about fifty-four percent without Fort Lauderdale. Brief discussion ensued about the

program gear-up logistics, including the ReCommunity most favored nations contract clause, and deadline to sign on.

Mayor Seiler opened the floor for public comment.

Elliot Auerhahn, Director of Solid Waste and Recycling Services, offered information including the point that the price will decrease as municipality participation increases.

With respect to the ten or five percent program support fee, Mr. Auerhahn indicated the difference is about \$22,000-\$23,000 per year. The County's experience is that assistance provided by the County that supplements what municipal staffs are doing easily makes up the difference in terms of increased recycling. It is education and technical expertise. In the past, there was a penalty required to be paid for a reduced solid waste volume. The County is now free to innovate with respect to multi-family and commercial. The City Manager referred to previous County literature that shows Fort Lauderdale's price to be \$75,297 with the assumption of all thirty-one cities participating. If the County would cap the City's fee to \$45,000 or \$50,000, he felt it would be reasonable. Mr. Auerhahn agreed to provide a letter on this point. Albert Carbon, Director of Public Works, advised that the letter would be needed by tomorrow in order to coincide with the City's upcoming agenda. There was consensus approval this item should be scheduled on the October 2 agenda. Mayor Seiler advised if the County would cap the City's obligation at \$44,000, the City would likely participate.

Vicki Eckels, Fort Lauderdale resident, supported this item regardless of whether the County will cap the City's fee. She was concerned about risk and incentive from other companies if the City does not join the County.

George Platt of LSN Partners, representing ReCommunity, commented that ReCommunity would like to secure as many cities as possible to join before they finalize plans for the facility that will accommodate the program. He spoke favorably about use of five acres of the City's property and the positive impact on the City's revenue stream.

Mr. Platt responded to Mayor Seiler's questions that ReCommunity's parent company is based in Charlotte, North Carolina, and their current operation is in Palm Beach County. He offered to furnish data as to the volume at that location. He also mentioned some particulars about the proposed building and equipment.

There was no one else wishing to speak.

This item will be considered at the October 2 regular meeting subject to the price commitment.

BUS-5 - Choice Agreement for Garbage and Yard Waste Collection Service

Albert Carbon, Director of Public Works, reviewed information in Commission Agenda Memorandum 12-2270. The City Manager indicated that in 2015, staff would be recommending an RFP for one citywide contract. Mr. Carbon expanded on the history associated with there being two contracts.

The City Manager advised that an extension will be on the upcoming agenda. There was consensus approval to proceed.

**BUS-6 - Single Stream Recycle Update and Response to Sustainability Advisory Board
Commission Communication**

Albert Carbon, Director of Public Works, reviewed information in Commission Agenda Memorandum 12-2273. Mayor Seiler wanted to reserve some of the grant funds for potential new ideas. He agreed to seek the Resource Recovery Board's approval with respect to the grant deadline being extended. Mr. Carbon elaborated upon additional ideas on using the funding. At Mayor Seiler's request, Mr. Carbon agreed to look into whether the neighborhood awards program amounts could be increased. Commissioner DuBose pointed out that the increase would extend beyond the scope of the grant. He wanted to see information for the long-term.

Mayor Seiler opened the floor for public comment.

Vicki Eckels, member of the Sustainability Advisory Board, referred to the request to withhold some of the grant funds and emphasized the Sustainability Advisory Board's request to expend grant dollars on achieving the goal, highlighting multi-family, and not more research on how to achieve the goal. The Board would like staff so directed.

There was no one else wishing to speak.

Both Commissioners Rogers and DuBose requested financial information before the Commission is asked to take action.

There being no other matters to come before the City Commission, the meeting was adjourned at 10:30 p.m.

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