



## **AGENDA & Notice of Work Session for City Council**

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The City Council of the City of Newport will hold a work session on Tuesday, March 11, 2014, at 12:00 P.M. The work session will be held in Conference Room A at City Hall, located at 169 S.W. Coast Highway, Newport, Oregon 97365. A copy of the agenda follows.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Peggy Hawker, City Recorder at 541.574.0613.

The City Council reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the meeting.

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### **CITY COUNCIL WORK SESSION** **Tuesday, March 11, 2014 - 12:00 P.M.** **Conference Room A**

- A. Call to Order
- B. Discussion and Review of Questions Related to the Curbside Compostables Program Proposed by Thompson's Sanitary Service
- C. Adjournment



Spencer Nebel  
City Manager  
CITY OF NEWPORT  
169 S.W. Coast Hwy.  
Newport, OR 97365  
[s.nebel@newportoregon.gov](mailto:s.nebel@newportoregon.gov)

## MEMO

DATE: March 11 at 2014

TO: Mayor and City Council

FROM: Spencer Nebel, City Manager

SUBJECT: March 11, 2014 City Council Work Session at noon

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Attached are the responses to the questions I compiled for Thompson's Sanitary Service from the City Council, regarding the possible implementation of the curbside compostables collection program for the City of Newport.

I grouped the questions into several categories to facilitate the review of these issues by Thompson's and the City Council. In reviewing the questions and discussing this matter with the Mayor, there are several questions that the Council should consider to provide direction for the development of a recommendation for the March 17, 2014 City Council meeting.

**1.0 Service:** The service, as is now proposed, allows for those who would introduce a 24 gallon container (this was previously referred to as a 20 gallon container) for a cost of \$19.14 to opt out. This creates a large enough customer base to keep the compostable service economical for the balance of the users, but allows the smaller users a limited opt out of the compostables service. In addition, Thompson's have agreed to offer a smaller compostable container for those with space limitations. There would be not be changed in price for this option. Is the City Council satisfied with these revisions to the original mandatory program or does the Council want to see additional changes in service? If, so what additional program changes should be made?

**2.0 Performance and Reporting:** Is the performance and reports for the compostables program adequate for this program or is some other standard proposed?

**3.0 Financial:** Are the financial responses proposed by Thompson's acceptable or should additional steps be taken in this area?

4.0 Contract Issues: Are the responses for Thompson's acceptable or should additional discussion occur?

5.0 Decision Making: Is the City Council ready to make a decision as to whether this program should be voted upon? If not, what specific information should be obtained to go forward with the decision? If there are basic issues preventing a decision to be made, should this program be considered for a different year?

If there is majority consensus to move forward with a vote on a curbside compostables collections program for the March 17, 2014 City Council meeting, I will ask city attorney Rob Connell to review the approval process and proper resolution or ordinance to complete the implementation of this program.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Spencer R. Nebel', written in a cursive style.

Spencer R. Nebel  
City Manager



Spencer Nebel  
City Manager  
CITY OF NEWPORT  
169 S.W. Coast Hwy.  
Newport, OR 97365  
[s.nebel@newportoregon.gov](mailto:s.nebel@newportoregon.gov)

## MEMO

DATE: March 6, 2014  
TO: Thompson's Sanitary Service  
FROM: Spencer Nebel, City Manager  
SUBJECT: Curbside Compostables Program

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### Questions Regarding Curbside Compostables Program

#### 1.0 Service:

1.1 Can TSS provide an estimate of the percentage of customers that have used the opt-out provision offered by Salem/Marion County, which is similar to the one proposed in the draft resolution.

1.1.1 TSS estimates fewer than 5% opted for a 20 gallon cart without Mixed Compostables. In Newport the opt-out size is 24 gallon.

1.2 Could the 20 gallon roll-cart noted in the draft resolution be increased in size without further increase in cost, as listed in the proposed monthly service rates last night?

1.2.1 The manufacturer has changed the mold to a 24 gallon, but TSS will still offer the 15 gallon savings of \$1.20 when reality is its only 11 gallons smaller than 35 gallon roll cart.

1.3 What difficulties arise from offering a 32 gallon container for those who choose to "opt out"? This is what customers are currently using, and based on the feedback, would like to continue. This would also cut the capital cost by reducing the number of 20 gallon containers to be purchased. The "20 gallon only offer" has the appearance of an effort to pressure participation in the compost program in order for customers to have sufficient solid waste container capacity. Was that the intent of the 20 gallon limit for "opt outs"?

1.3.1 The cost of disposing of compostable or recyclable materials will be higher than the cost to dump it in a landfill. Costs are higher to separate the streams, provide different equipment, handle the material multiple times, transport to the drop off site as well as tracking all of that activity. The easiest and cheapest way to dispose of waste is to dump it in the landfill; however, TSS, the Oregon DEQ, the County and the City all agree that reduction in the material flowing to the landfill, and increasing the material that is handled in an environmentally sound manner is a goal. TSS is committed to assisting the jurisdictions in meeting these goals. TSS makes every effort to keep these programs efficient and to minimize the

financial impact to our customers, but it simply isn't possible to provide substantial new programs which meet the needs of the community at the same rate as charged to take everything in one truck to the landfill. If 35 gallon customers were allowed to opt out, that has the potential for removing 80% of the customer base from the Mixed Compostable program. The program would be unsustainable for those remaining because costs could not be spread across a customer base that was broad enough to create an affordable program.

**1.3.2** The City ultimately makes these policy decisions, so this may well be better directed to the City, however TSS believes that the intent and goal of The State of Oregon, the County of Lincoln and the City of Newport is to lower the amount of solid waste going to the landfill, while offering environmentally sustainable methods of disposal.

**1.4** Would TSS be capable of providing and servicing 35 gallon containers, as well as 65 and 95 gallon containers for customers for compostable waste? What would be the likely cost difference, if any?

**1.4.1** TSS proposes 95 gallon roll carts because they have been found by the industry to provide the most efficient collection of bulky wood waste. However, a compromise by TSS to allow a 65 gallon cart for customers who request it (at the risk of losing collection efficiencies) has already been incorporated in our proposal. The goal to control costs and provide the best service is accomplished with uniformity and collection efficiencies. Mixed compostables are simply too bulky for 35 gallon carts.

**1.5** If the program is instituted, will the TSS accept compostable waste at their transfer station, or other location(s)? What would be the anticipated rate?

**1.5.1** TSS currently accepts wood waste without food waste, to be chipped for hog fuel; however, TSS is not licensed by the DEQ for inclusion of food waste with the current wood waste pile. Wood waste taken at the transfer station is non-treated lumber and brush.

## **2.0 Performance and Reporting:**

**2.1** Would TSS agree to provide benchmarks at six-month intervals that can be used at the end of three calendar years to determine the effectiveness of a compostable program and to determine whether the program should continue?

**2.1.1** TSS will collect, analyze, and monitor data on the effectiveness of the program, and constantly compare results to the goals and benchmarks which allow adjustments to programs to increase efficiencies. TSS anticipates an extremely effective program, and will be happy to share the results and benchmarks with the City.

**2.2** What measurement criteria will the TSS provide, and at what frequency, to monitor the performance of the program? What external benchmarks are available for comparison?

**2.2.1** TSS proposes benchmarks based on (a) Customer Participation, and (b) Waste Diversion. These measurements will be analyzed annually for three years following implementation of the Mixed Compostable program, with program performance being determined at the end of the third year of data collection.

(a) Benchmark for Customer Participation: 85% of customers receiving Mixed Compostable service will be participating in the program by placing a set-out at the curb at least one time per month on average.



(b) Benchmark for Waste Diversion (Mixed Compostable Waste as a percent of the total affected waste stream comprised of landfilled waste and Mixed Compostable waste):

If the program opt-out is less than 5%, then 25%-30% of the total affected waste stream will be diverted as Mixed Compostable waste.\*

If the program opt-out is 5% to 10%, then 20%-24% of the total affected waste stream will be diverted as Mixed Compostable waste.\*

If the program opt-out is over 10% but under 15%, then 15%-19% of the total affected waste stream will be diverted as Mixed Compostable waste.\*

\*The empirical benchmark available for comparison is at an opt-out level of less than 5%; so if higher opt-out percentages occur in Newport's program, the benchmarks for opt-outs over 5% can only be TSS's best estimates.

### 3.0 Financial

3.1 Will TSS agree to keep rates at current levels for FY14-15 if the cost of a compostable program is added to the services offered to customers or is this rate good only until June 30, 2014?

3.1.1 TSS agrees to keep rates stable through June 2015, and has accepted all of the risk of pricing the compostable program through that time period. While TSS has projected the first year of the program with no anticipated profit margin, it should be noted that the City will, in fact, receive the franchise fee on the revenue from the program.

3.1.2 Additionally, in subsequent years the cost of the compostable program will be included in the Rate Review Report submitted annually, and changes in costs will be reflected in proposed rates as called for in the Franchise Agreement.

3.2 Would the TSS provide separate reporting of solid waste, recycling, and compostable waste costs? Will the costs for the compostable waste versus other solid waste be accounted for separately? If so, is it the intent of the TSS to recommend rates that directly reflect these differences (i.e. will the "opt-in" rates vs. the "opt out" rates be differentiated by exactly the additional cost of composting, or will one service subsidize the other)?

3.2.1 TSS will provide tonnage amounts for solid waste, recycling and compostable waste, which can be stated in terms of disposal costs.

3.2.2 TSS does, and will continue to, make every effort to identify those costs that are changing, and estimate or allocate the costs contained in the CPA reviewed financial statements to develop trends in each line of business, and make recommendations as to how to implement cost changes.

3.2.3 It is possible to report costs of lines of business such as solid waste, recycling and compostable waste, and TSS will track those separate costs if requested by the Council. There is an accounting expense for this enhanced level of accounting, so the cost of that additional accounting would need to be weighed against the value of the data to the council.

3.2.4 One of the fundamental reasons that franchising exists is to assure that all residents, not just the convenient-to-service residents, are serviced at a reasonable rate. Much like most other utilities and city services, there is some form of subsidy between users. A customer 100 yards from the truck yard pays

the same rate as the furthest out residential customer in the city. Clearly we understand that there are cost differences, however to keep the system sustainable for all residents, the costs are spread over the entire residential rate base. The same would hold true for other lines of business as well, the compostable program included.

**3.2.5** As it relates to the opt-in and opt-out rates, this was not our proposal and as such we have not analyzed the rate impact, nor how future changes in rates would impact the variance in the rate for these customers. The one thing we know about the opt-out rate is that it will put upward pressure on rates to cover the cost to achieve the goal of more recycling, which is a goal of the state, county and city.

**3.3** The TSS representative stated the \$6.59 is a cost only estimate that contains no fee, and that is the price a customer would pay in addition to the existing rate. All other customer charges under the contract are computed using estimated cost plus a 1.12 multiplier. To not include the 12% for the \$6.59 in the rate computation would lower the overall expected "operating ratio" of the contract (unless a higher multiplier is used on the remaining costs). Is it the intention of the TSS to continue, for the life of the contract, to provide this service at cost only? Is the TSS willing to accept a reduced "operating ratio"?

**3.3.1** TSS is committed to providing this new, environmentally sound program for the residents of the City of Newport. That commitment has shown itself in the current proposal in which TSS bears all of the risk of the program, with no application of the Operating Ratio for the first year.

**3.3.2** There is no basis for, and no proposal to, increase or decrease the Operating Ratio as called for in the contract.

**3.3.3** TSS is not proposing to provide this service at "cost only" for the life of the contract.

**3.4** The introduction of composting will increase the gross revenue of the City's solid waste contract, and therefore profit potential. Should an increase in profitability be realized, how does the TSS propose to return some share as an incentive to the customer base that made it possible?

**3.4.1** The introduction of new services should result in an increase in revenue, and thus an increase in profit to the company. As with any business, as the business grows, as risks and responsibilities increase, as you work harder and provide better service, or more service, those efforts generally result in some additional profit, which is regulated by the rate report.

**3.4.2** TSS will realize some higher level of efficiencies through administrative staffing that may be spread over higher container counts, potential savings from sharing of vehicles, either on route, or when another vehicle is being serviced, etc. These savings, by the very nature of the current rate regulation, will be passed back to the ratepayer in the form of downward pressure on rates.

**3.4.3** The City will, in fact, be gaining additional franchise fees from these new services.

#### **4.0 Contract Issues:**

**4.1** What is the reasoning behind a "continuing" franchise term under section 4 of the solid waste franchise agreement? Is this a common practice in Oregon?

- 4.1.1 Please see the attached letter from Kevin Joyce, Vice President of Columbia Bank (formerly West Coast Bank) who is familiar with operations of solid waste management companies. His letter summarizes why the continuing franchise allows these companies to act in good faith when they purchase highly specialized equipment and expand their facilities so they can service customers and meet the requirements of state and local jurisdictions.
- 4.1.2 In addition to the financing issues, fixed term agreements would limit the potential for haulers to "react" to changing conditions. Significant investment in capital is often required to utilize improving methods of collection, to realize efficiencies, to comply with changing State and Local Solid Waste Goals and to generally make better services available to customers. In the later years of a fixed term agreement, there often are simply not enough years remaining to amortize these costs over, resulting in either wild swings in costs to ratepayers, a stagnant collection system or a number of agreements regulating changing services with many expiration dates which then become cumbersome to administer.
- 4.1.3 The annual renewal is simply a seven year agreement that can be extended one year annually which allows for investing to occur and be amortized over a reasonable amount of time.
- 4.1.4 Most importantly, this type of agreement allows for consistent service and stable rates for the residents of the City and County.
- 4.1.5 For the reasons stated, approximately 80 cities and counties in Oregon have implemented the continuing franchise.

4.2 The contract with PRC (Republic) for disposal is not being made available to the public. This is a major component of the cost make-up, as well as determines the long term viability of the service. While it is not uncommon to hold certain cost elements as proprietary, to attempt to exempt the entire contract from public scrutiny in a cost plus pricing environment is unacceptable. Could this document be made publically available? Would the TSS be amenable to placing the critical items (duration/options, rates, escalation process/formula/bounds) in the public domain as an alternative?

4.2.1 TSS is willing to provide a general outline of the major terms of the agreement for informational purposes to the City Manager/City Attorney. TSS used "group purchasing" when negotiating rates with Valley Landfills by combining all the Haulers and those tons in Lincoln County to receive the lowest possible rate. It should be the goal of all to maintain this negotiating advantage.

4.3 Would the TSS be amenable to a contractual end date for the program coincidental with terms of the PRC compostable waste disposal contract?

4.3.1 TSS will evaluate with staff the success and continuation of the program based on all the current factors, including markets, distances and costs, to ensure the program is viable.

**5.0 Decision Making:** -- Timing is an important factor for rolling out a successful program by TSS, but the following questions are council decisions.

5.1 Should the Council do its own survey on the performance for curbside compostables in the water bill since the TSS did not speak to the cost for the program?

5.2 Should the Council hold a town hall meeting just for the composting issue outlining the purposed opt out provisions?

5.3 Should more time be used to educate citizens before making a decision?



- 5.4 Should we educate citizens regarding the positive and negative impacts of using garbage disposals?
- 5.5 Should the Council/City Attorney prepare a counter offer that modifies the terms of the existing contract included modifications to the work statement to reflect these changes?
- 5.6 Should the Council appoint the City Attorney/City Manager or an outside resource to negotiate contractual provisions before reaching mutual agreement and before a resolution is passed?

## 6.0 Miscellaneous Comments:

- 6.1 Most people envision food composting and not brush; they see it as smaller issue.
  - 6.1.1 Other cities (Salem) with identical program experienced a 29% diversion of Residential waste from the landfill to recycling facility. It's the largest portion of the waste stream not yet being recycled in Newport.
- 6.2 Most folks already compost their food or put it down the garbage disposal.
  - 6.2.1 As did Salem before curbside Mixed Compostables were offered, and they had 29% diversion. TSS benchmarks 25-30% for the program in Newport.
- 6.3 Most folks throw brush down a canyon or take it to the transfer station in Toledo where they can dump it for free, TSS charges for this service.
  - 6.3.1 Yes, residential self-haulers can take "brush" (wood waste) to Toledo Recycling and Transfer, for no charge at the gate. The reason is Georgia Pacific subsidizes the cost to grind the wood into hog fuel, (which was the old program at Skeleton Road). Toledo Recycling and Transfer (Dahl's) charges \$5/yard for commercial self haul wood waste, TSS charges \$5/yard for both residential and commercial self haul wood waste, South Lincoln Transfer & Recycling (Dahl's) charges \$7/yard for both residential and commercial self haul wood waste.
- 6.4 I've been told that for a "savings" of \$1.20 you get 60 gallons less trash space per month, we should just say no.
  - 6.4.1 The smaller garbage cart is 24 gallons (not 20), and the savings is \$1.20/month. TSS calculated the savings based on the difference between 35 and 20 gallons, but will keep the \$1.20 savings as the new rate savings on only 11 gallons. 11 gallons a week is approximately 44 gallons a month. It's important to also point out that a customer who has compostable service (\$6.59/month) gets 95 gallons a week or 384 gallons (1.9 yards) a month removed from their curb at home. The point is: curbside service is more convenient, a better value, and includes both wood and food waste recycling.
- 6.5 If People opt out they shouldn't be penalized and/or others who will not use the service subsidize people who want the service.
  - 6.5.1 Answer 3.2.1-5
- 6.6 I don't want it and will not use it. My food waste goes down my expensive sewer line.
  - 6.6.1 Opting out will save \$1.20/month.
- 6.7 TSS has presented the City with an unsolicited proposal for composting services then we need to either decline, accept or provide a counter offer to TSS.
  - 6.7.1 City Council meeting minutes April 1, 2013, established the joint effort to review recycling opportunities with Councilor Allen and Councilor Saelens.
- 6.8 Start up a community compost site.

**6.8.1 Many environmental safe guards are in place to establish very strict scope of establishing, siting, and operating a compost facility. Details available upon request.**

Respectfully submitted,

Spencer R. Nebel  
City Manager



September 24, 2010

Estle Harlan  
Solid Waste Management Consultant

**Re. Rolling Franchise Agreements for the Refuse Industry**

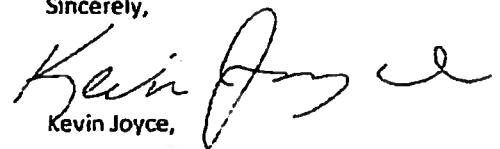
When evaluating any loan request, banks in general look to the company's historical as well as future ability to generate sufficient cash flow to repay a loan. Weaknesses are identified and mitigated or the loan is not granted. Mitigations to risk include shortening the term of the loan, requiring extra collateral and/or charging appropriately for risks.

In recent years, with the expansion of recycling programs and due to general growth, the refuse industry has had to spend additional sums on specialized equipment and facilities. Further compounding the issue is the inflation of equipment and facility costs. It is not uncommon to see one truck cost more than \$250,000. This is not just a one-time expense but an ongoing cost of business because this equipment needs to be replaced as it wears out.

With these rising investment requirements, companies are borrowing larger sums over longer periods of time. Lending concerns over a company's ability to continue to legally have the right to operate under its stated franchise agreement are amplified when that company's contract is nearing expiration. This concern is often difficult to mitigate because the loan needs to be amortized over a period of time sufficient to keep payments reasonable.

It seems reasonable to allow the introduction of "rolling franchise agreements" which stipulate the requirements of service. If a company is going to act in good faith and purchase specialty equipment and expand facility capacity to service its customers, there ought to be some assurance that the company will be able to operate for a period of time sufficient to recoup its ongoing investment.

Sincerely,

  
Kevin Joyce,  
Vice President

Year	Rate for 35 Gallon	
1992	\$11.50	Pre Red Bin
1993	\$14.50	Red Curbside Bin
1994	\$14.50	
1995	\$14.50	
1996	\$14.50	
1997	\$14.50	
1998	\$14.50	
1999	\$14.50	
2000	\$14.50	
2001	\$14.50	
2002	\$14.50	
2003	\$14.50	
2004	\$15.95	Automated Comingle in Blue Roll Cart
2005	\$17.05	
2006	\$17.40	
2007	\$17.75	Automated all garbage roll carts. Some customers enjoyed a rate reduction.
2008	\$17.95	
2009	\$19.55	
2010	\$19.95	
2011	\$19.95	
2012	\$20.35	
2013	\$20.35	