

CITY OF EL PASO, TEXAS
AGENDA ITEM DEPARTMENT HEAD'S SUMMARY FORM

DEPARTMENT: Environmental Services Department
AGENDA DATE: 12/22/09
CONTACT PERSON/PHONE: Ellen Smyth, 621-6719
DISTRICT(S) AFFECTED: Citywide

SUBJECT:

Discussion and action for Council to provide policy direction to Environmental Services including privatization, franchising, flow control and management practices.

BACKGROUND / DISCUSSION:

The Environmental Services Department is requesting a policy direction on privatization on landfills and collections. On November 12, 2009, the ESD Legislative Review Committee discussed the item and made recommendation to forward the item for full Council review.

PRIOR COUNCIL ACTION: N/A
December 1, 2009

AMOUNT AND SOURCE OF FUNDING: N/A

BOARD / COMMISSION ACTION: N/A

*****REQUIRED AUTHORIZATION*****

LEGAL: (if required) _____ **FINANCE:** (if required) _____

DEPARTMENT HEAD: _____
(Example: if RCA is initiated by Purchasing, client department should sign also)
Information copy to appropriate Deputy City Manager

APPROVED FOR AGENDA:

CITY MANAGER: _____ **DATE:** _____

Summary of Advantages and Disadvantages of Identified Solid Waste Management Policies for the City of El Paso

Landfill Liability

- Zero Landfill Liability (e.g., sale of landfill)
 - Advantages**
 - One-time lump sum revenue
 - Discontinued liability
 - Disadvantages**
 - City must pay to dispose own waste
 - No control of LF disposal fees
 - Loss of steady revenue
 - Potential loss of personnel employment
 - Potential loss of revenue from Cap & Trade legislation (pending)
 - Potential bankruptcy or vacation of LF ownership
 - Potential lack of competition in waste disposal area market
 - City effectively cedes long-term presence in waste disposal

- Reduced Landfill Liability (e.g., operator lease contract)
 - Advantages**
 - Potential up-front payment + steady revenue (royalties) for life of lease
 - Shared liability
 - Increased efficiency for executive decisions
 - City can regain responsibility with termination of lease
 - Disadvantages**
 - Partial loss of control of disposal rates
 - City must pay to dispose own waste
 - Potential loss of personnel employment
 - Need for city oversight of private lease
 - City retains responsibility to plan and develop new landfills

- Full Landfill Liability (current)
 - Advantages**
 - Steady revenue from disposal fees
 - Ability to set disposal fees
 - Free city facility waste disposal
 - Disadvantages**
 - City retains sole liability for operation of landfill, post-closure care and planning for new landfills

Collections Liability

- Delegated Collection Liability (e.g., privatization)
 - Advantages**

City eliminates ownership and maintenance cost of vehicles and containers for residential service

Disadvantages

City loses some control over collection fees

City may have to pay private party for residential collection services

- Mixed Collection Liability (current)

Advantages

City maintains containers, vehicles and personnel dedicated solely for residential collection

Disadvantages

Loss of revenue from commercial collection

- Complete Collection Liability (e.g., municipalization)

Advantages

City gains revenue from both residential and commercial collection fees

City has full control over waste collection standards and policies within jurisdiction

City decides where waste is disposed

Disadvantages

Increased operational costs and demands of serving residential and commercial customers (vehicles, personnel, containers, etc.)

Landfill life could be reduced with increased influx of waste

Franchise Agreements

- Relaxed (current)

Advantages

Open market solutions to waste collection process

Increased flexibility for waste management within the City

Disadvantages

Potential for illegal dumping of commercial waste remains

- Affirmative (proposed)

Advantages

Improved collection standards

Commercial generators required to acquire collection service (helps prevent illegal dumping)

Decrease in litter on city streets

Increase in quality of data related to total volume of waste collected within the City

With Franchise Fee, increase in revenue for City

Disadvantages

Potential increase in collection cost to customers/residents

Small-scale waste haulers would not benefit from vertical integration of waste management

Increased City resources required for enforcement of franchise agreement/franchise fees
Current agreement with Waste Connections prevents City of El Paso from assessing Franchise Fee against that company until 2014

Disposal (Control of Flow)

- **Passive (current)**

Advantages

City has landfill capacity of 35 years at current volumes
No new capital requirements needed—status quo

Disadvantages

City rates can be undercut by private entities and deteriorate customer base
If private landfill closes unexpectedly, City will be unprepared to accept greater volume
Current tonnage is not adequate to attract new technologies

- **Directed (proposed)**

Advantages

Increase in revenue for City due to more waste being directed to City-owned landfill
Increased revenue to fund improved solid waste planning activities, to include recycling
City control of waste disposal standards = increased quality of life for city residents

Disadvantages

Lifespan of landfill shortened due to increased rate of waste disposal

Management Contract

Advantages

Potential proprietary knowledge of solid waste management in private industry could lead to more effective management of city MSW collection/disposal services
Could be applied to collection or landfill operations
Management party may have increased national support network and presence in the solid waste management industry

Disadvantages

Private management likely would demand higher salary than equivalent-level City-employed management
Increased level of bureaucracy in solid waste operations
Need for management contract would assume current ineffective management of landfill/collections



Solid Waste Management Policies, The City of El Paso

ENVIRONMENTAL SERVICES Department

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Issues Requiring Clarification

- What was directed by Council?
 - “Privatization” of landfill = lease or sale to private party
- What was discussed by LRC?
 - Management Contract for landfill operations
- Which of the following policies does Council wish ESD to pursue?
- Does Council wish to pursue a Management Contract?



Solid Waste Policies Summary: Discussion

- Landfill Liability
 - Zero
 - Reduced
 - Full
- Collection Liability
 - Delegated
 - Mixed
 - Complete
- Franchise Agreement
 - Relaxed
 - Affirmative
- Disposal (Control of Flow)
 - Passive
 - Directed



Liability Policy: Definition

- Policy that dictates the level of liability and control which the City wishes to retain with respect to the ownership and operation of landfill(s) and collection services.



Landfill Liability Policy: Types

- **Zero:** Municipality wishes to relinquish all control of waste disposal facilities, including ownership of land, operation of facilities, permits, equipment and associated vehicles, employment of personnel associated with waste disposal activities and the setting of disposal fees. **Using this policy, a municipal landfill may be sold to a private party.**
- **Reduced:** Municipality wishes to retain some level of control of waste disposal facilities, involving factors outlined above. **Using this policy, a landfill lease agreement may be pursued between a municipality (landfill owner) and a private party (landfill operator).**
- **Full:** Municipality wishes to retain all control of waste disposal facilities. **This is the City of El Paso's current policy, in which the City is both the landfill owner and operator (Clint, McCombs).**



Collection Liability Policy: Types

- **Delegated:** Municipality wishes to delegate control of waste collection activities, both residential and commercial, including containers, equipment and associated vehicles and employment of personnel associated with waste collection to a private party, often termed “privatization.” **Using this policy, a municipality may enter into a contractual agreement with a private party to undertake waste collection activities within jurisdictional boundaries.**
- **Mixed:** Municipality wishes to retain control of residential waste collection activities, while allowing commercial generators to contract private parties for commercial waste collection. **This is the City of El Paso’s current policy, which allows private haulers to collect commercial waste within the city.**
- **Complete:** Municipality wishes to control of waste collection activity within jurisdiction, to include residential and commercial waste, often termed “municipalization.”



Franchise Agreement Policy: Definition

- Policy that imposes standards for waste collection within a municipality's jurisdiction, and provides for the awarding of the right of a private party to collect waste on the behalf of a municipality within its jurisdiction.



Franchise Agreement Policy: Types

- **Relaxed:** Municipality does not wish to impose detailed waste collection standards upon residents, commercial generators or waste haulers within its jurisdiction. **This is the City of El Paso's current policy, and does not allow for the use of franchise agreements with private haulers or franchise fees to be collected by the City.**
- **Affirmative:** Municipality wishes to enact relevant ordinance(s) allowing for the imposition of waste collection standards within its jurisdiction and municipality *may* award the right to collect waste within its jurisdiction to private hauler(s). **Using this policy, the City would be able to require private haulers to enter into franchise agreements dictating waste collection standards within the city. In addition, franchise fees *could be* required from private haulers for the right to collect waste within the City's jurisdiction.**



Disposal (Control of Flow) Policy: Definition

- Policy that restricts where waste collected within a municipality's jurisdiction is disposed.



Disposal (Control of Flow) Policy: Types

- **Passive:** Municipality does not wish to direct where waste collected within its jurisdiction is disposed. This is the City of El Paso's current policy, which allows commercial waste collected by private haulers within the city to be disposed at landfills other than those owned by the City of El Paso.
- **Directed:** Municipality wishes to direct that all waste collected within its jurisdiction be disposed at a City-owned landfill. Using this policy, the City would enact a flow-control ordinance, directing that all residential and commercial waste collected within its jurisdiction is disposed at a City-owned landfill.



Management Contract: Definition

- Individual(s) contracted by a private party for employment on behalf of the City, for the exclusive purpose of serving in management and supervisory positions within City departments or operations.



Recommended Policies

The Environmental Services Department recommends the following policies be maintained and/or accepted by the City of El Paso:

- Full Facility Liability (current policy)
- Mixed Collection Liability (current policy)
- Affirmative Franchise Agreement (proposed)
- Directed Disposal: Control of Flow (proposed)
- Management Contract: Not Recommended