

**DeFuniak Springs City Council  
Workshop Minutes  
Council Chambers  
December 16, 2020**

The following members were present: Mayor Bob Campbell, Councilmember Todd Bierbaum (Seat 1); Councilmember Kevin Crystal (Seat 3); Councilmember Henry D. Ennis (Seat 4), and Councilmember Wayne Graham (Seat 5). Mayor Pro-Tem Robert McKnight (Seat 2); excused.

Also, present: Mell Smigielski, City Manager; Carisse LeJeune, Deputy City Manager; Debra Gibson, Finance Director; and Maryanne Schrader, City Clerk.

Mayor Bob Campbell called the workshop to order at 4:00 p.m. to discuss the Waste Management Contract.

City Manager M. Smigielski went over the updates and changes in the contract mentioning the terms were changed by removing the automatic renewal. At the end of 180 days, Waste Management will contact the city to alert us that the contract is due to end. The term starts June 1, 2021.

City Manager M. Smigielski went over page 5 on the first d), the logo will be added on each of the carts. On the franchise fee on page 6, the percentage is set at 2% but will be addressed again later in the meeting.

In response to Councilmember T. Bierbaum, on a specific time frame on charges, City Attorney Clay Adkinson will craft language for the invoice from the date of occurrence such as not more than 30 days and will work it into the utility billing cycle.

Regarding Page 7, on holidays, City Manager M. Smigielski pointed out the last sentence explaining Waste Management will collect up to three bags of waste outside the cart the day after Christmas Day. After Ronnie Bell, Waste Management, went over solutions with the Council. City Attorney Clay Adkinson said he will amend the contract to state the pickup will be the day after a holiday unless the day falls on a Sunday.

City Manager M. Smigielski went on to the Exhibit A which depicted the cart pricing and franchise fees depending on the percentage rates, and Exhibit B regarding the overage description for dumpsters. He mentioned the fee of \$9.10 at 2% and went over the fee percentage on cart contents. He mentioned the fees based on percentage base for pick up outside of the cart.

City Manager M. Smigielski mentioned residents do not pay a residential rate, as the rates are on commercial customers. Ronnie Bell replied the fees are based on taxes for the commercial rate. He said the \$13.37 is basically picking up the cart with three bags. Mr. Bell said what the customer pays now and what the options are were added per the earlier request from Councilmember McKnight. The new front loaders trucks and dumpsters will still need to be purchased.

Discussion ensued on extending the franchise fee. R. Bell said they would be able to look at a ten-year rate. However, five years is the average in their customer base. R. Bell said the 180 days

was built in the contract for Waste Management to notify the city. It gives the city ample time to go to bid or RFP, if the city chooses.

Councilmember T. Bierbaum said he prefers to look at the ten-year contract rate and keeping the \$9.10. City Attorney Clay Adkinson suggested rather than a one-year notice, it would be one year prior to the expiration of the ten-year term and to meet to discuss performance and each party gives notice of intent. City Attorney Clay Adkinson said if you renew there will be other options other than a CPI. He added the city would have time for a bid process and look at other options.

Councilmember K. Crystal mentioned either a five- or seven-year option, so negotiations should be one year out for five years, and 18 months, if it is a ten-year contract. City Attorney Clay Adkinson went over the meeting requirement options based on the renewal date.

City Manager M. Smigielski explained we did not give the ten-year option in the draft, since there was discussion on wanting to back out at one year.

Discussion ensued on the ten-year option and percentages. Mr. R. Bell said on a ten-year term, they could negotiate the percentage numbers.

City Attorney Clay Adkinson said the opt-out language will not be in this contract. However, there is a failure to perform termination for just cause in separate language. Performance is also a factor. He does not believe there was not much consideration for termination other than they not providing the franchise fee. The issue is we do not have a level of service built in with specific language, so he suggested having a detailed scope of services.

Mr. R. Bell said Waste Management has to invest capital with the purchase of the front load trucks and dumpsters.

City Attorney Clay Adkinson said we have about 2,350 customers, so you have to pay a mobilization fee, so there is not enough volume to make it up for the company. In five years, the commercial volume may be larger. The cancellation and convenience language are easier to exclude providing the detailed scope of services. He believed the language that Councilmember R. McKnight had sent out earlier would provide the level of protection. The flip side is that the city would have to inform them and give them the opportunity to cure it.

In response to Councilmember K. Crystal on what the residents' complaints are and level of service, Public Works Director C. Drake responded that residents mainly have an issue on getting the cans out to the road.

R. Bell said the level of service would be specific on addressing complaints and reporting.

City Attorney Clay Adkinson said we could build in level of service and what the remedy would be in a specified time. He added the level of service would be consistency.

R. Bell said the number of calls will determine the level of service. Councilmember K. Crystal said it needed to be in writing.

Public Works Director C. Drake said the biggest complaint on their end is the large number of bags outside of the cans, so it has to be remedied now. Caleb, of Waste Management, said changing that behavior is difficult.

Mr. R. Bell said other municipalities have changed major terms for their residents. However, they had an active code compliance in force to change the behavior. Deputy City Manager C. LeJeune mentioned that Waste Management gave Destin residents a few extensions. She added short term rentals were problematic, so the ordinances were amended to make the property owner responsible for what trash was left out and citations were issued.

City Attorney Clay Adkinson said we are focusing on blight, but this is a nuisance issue. We can include specific terms in the ordinance.

Councilmember T. Bierbaum echoed Councilmember R. McKnight's statement earlier that he would like the level of service to remain the same.

In response to City Attorney Clay Adkinson and his question on boxes, Mr. R. Bell said the biggest issue is a low rate for an extra cart. If the cardboard box is placed in the cart, they will pick up. If it is on the outside, it is considered bulk.

In response to the concern by Mayor Campbell with bags outside of the cart, R. Bell replied that the three recycling trailers are handled by the County suggesting that an extra trailer be placed at the Fire Station. If you take out plastics, paper, glass cans for recycling, the resident may not need an extra cart. He suggested providing flyers on how to recycle. He added extra carts may be requested for a time frame and would be billed accordingly.

Mr. Ennis said there were recycling bins at some time. R. Bell said the County ran a program citywide and had about 80% participation, however, it cost more than what we were able to get back.

Discussion ensued on dumpsters. R. Bell said a commercial dumpster is 6-yards and mentioned the franchise fee is included in the terms. He added statistics on what size dumpster is needed per the type of business could be done.

Councilmember T. Bierbaum asked about the downtown area. R. Bell said the alleyways are narrow and there is no way to get a dumpster in the alley. There are possibilities of sharing a dumpster for service. Caleb said they have dumpsters on wheels.

R. Bell said they would absorb the inventory, so if the city ever took it back, Waste Management would have to make it whole.

In response to City Attorney Clay Adkinson and whether the price on the term is factored in, R. Bell said the city only has 100 carts available.

In response to Councilmember T. Bierbaum on covering residential for one can, R. Bell said they do a house count and a second cart audit. The carts also have serial numbers.

Discussion ensued on the percentage of the franchise and length of terms. R. Bell believes legal can work out the terms. He added he will be able to get the rates back after the first of the year.

In response to City Attorney Clay Adkinson about a pass through, R. Bell replied they have a built-in margin. City Attorney Clay Adkinson said they are allowed to have a straight pass-through.

Discussion ensued on a campaign to customers and suggested January. R. Bell said he gave out flyer information to his Jackson County residents by placing it on each can. They will provide information on cart content only.

Mayor Campbell mentioned cart only and add another cart, if needed.

City Attorney Clay Adkinson suggested stating the terms of the franchise to get us to a 3% and close to a \$9.10 number, basically under the 2% to get the 3%.

R. Bell said the term of the contract will depend on the fees. He said it will be about six months before they would begin.

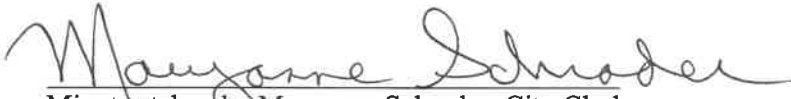
There was consensus on residential requirements for bag overage. R. Bell said you should put a yard limit on bulk and yard waste limit, as garbage can fall into the drainage structure. Public Works Director C. Drake said it was a safety issue.

Mayor Campbell adjourned the meeting at 5:28 p.m.

Approved:

  
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Mayor Robert "Bob" Campbell

Attest:

  
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Minutes taken by Maryanne Schrader, City Clerk  
*Proper notice having been duly given*

