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CONTINUATION OF TOWN COUNCIL MEETING OF AUGUST 13, 1991

AUGUST 14, 1991

7:00 P.M.

AGENDA

1. Roll Call & Pledge of Allegiance
2. Continue Under Waiver of Rule V of the Town Council Meeting Procedures to Remove from the Table to Discuss and Possibly Act Upon a Recycling Proposal requested by the Mayor's Office
3. Executive Session Pursuant to Section 1-18a(e)(2) of the General Statutes to Discuss Strategy with Respect to Pending Litigation Requested by Town Attorney Janis M. Small

CONTINUATION OF TOWN COUNCIL MEETING OF AUGUST 13, 1991

AUGUST 14, 1991

7:00 P.M.

This meeting is a continuation of the Regular Town Council Meeting of August 13, 1991. It was held in the Robert Earley Auditorium of the Wallingford Town Hall and Called to Order by Chairman Albert E. Killen at 7:15 P.M. Answering present to the Roll called by Town Council Secretary Kathryn F. Milano were Councilors Bradley, Duryea, Gouveia, Killen, Parisi & Zandri. Council Member Papale was attending a previously scheduled meeting and Councilor Holmes arrived at 7:35 P. Mayor William W. Dickinson, Jr. arrived at 7:25 P.M., Town Attorney Janis M. Small was present and Comptroller Thomas A. Myers was absent.

The Pledge of Allegiance was given to the Flag.

ITEM #2 Continue Under Waiver of Rule V of the Town Council Meeting Procedures to Remove From the Table to Discuss and Possibly Act Upon a Recycling Proposal Requested by the Mayor's Office

Motion was made by Mr. Bradley, seconded by Mrs. Duryea.

VOTE: Holmes, Papale & Solinsky were absent; all others, aye; motion duly carried.

Motion was made by Mr. Holmes to Waive the Bid to Accept Primary Recycling's Proposal to Operate the Recycling Center for a Period of Six Months, seconded by Mr. Parisi.

Mr. Don Roe, Program Planner explained that Primary Recycling Company was one of the two respondents to the bid request of August 30, 1990.

Primary Recycling's Proposal outlined the costs for equipment, processing charges to the Town for cardboard and newspapers, labor costs and a monthly cost summary. The profit proposal states that over the term of the agreement, Primary would receive 10% profit that will be garnered by them on the sale of materials. Anything over 10% puts the Town in a revenue-sharing position. This position will be one in which the Town would receive 75% and Primary would receive 25%. The proposal envisions additional site preparation including clean-up and construction of the glass containment area.

Mr. Gouveia stated that he will vote on this contract on the basis of its merits. He went on to say that any comments that he made at last evening's meeting or tonight should not be a reflection as to whether or not the Town should have Mr. Sawallich perform this service

His problem still lies with not being convinced that the Town no longer has a contract with Admet.

Atty. Small is of the opinion that a contract does not exist.

Mr. Gouveia asked, who has the duty to alter and/or amend any contracts?

Atty. Small: It comes back to you (Council).

Mr. Gouveia asked, who has the authority to terminate a contract that has not run its course?

Atty. Small responded, it would most likely be the Council. We did not terminate the contract, its course ended. The first contract was entered into and was amended in November of 1990. The expiration of the existing contract would be the effective date of a new agreement between the two. In December of 1990 another contract was signed which said that it did not take effect until all the permits were issued. This has not happened yet. Between the November and December contracts, there is presently no contract. If the Council had voted yes when Admet's new proposal came into effect, you would have eliminated both of the contracts. The December contract is not in effect because the permits have not been issued. The November contract stays in effect until such time as a new agreement has been entered into. The Council voted no on entering into a new agreement therefore, the November contract has ceased. When Admet stated that they could not perform, that is a defense to a breach of contract, and the contract came to an end. No one terminated the contract, it ended.

Mr. Gouveia maintained that representation was made to the Council that the Council was truly amending the contract at the August 6, Town Council Meeting. He asked, how can the Council amend a non-existing contract?

Atty. Small admitted that Mr. Gouveia's point was well taken because the December contract is conditioned upon the issuance of the permits.

Mr. Gouveia felt that Admet was led to believe that they had a contract. They worked with the administration and the Recycling Committee to negotiate changes to the contract and they were led down a rosy path of thinking that they were going to come before the Council and have changes made to the contract that they could live with. They were under the impression that if the Council did not approve the changes they still had a contract in effect that they could operate under.

Atty. Small disagreed. Admet told the Town that they could not and would not perform. They stopped operation.

Mr. Gouveia felt that the situation should never have deteriorated to the point that it did. Admet was crying out for help. He did not want the Town to be faced with a lawsuit again because of another contract. He could not, in good conscious, enter into a new contract without fully realizing whether or not we still have a contract with Admet.

Atty. Small felt quite confident in her position that the contract ceased. She pointed out that the majority of the Council present

at the August 6, 1991 meeting was under the impression that the contract ceased. When Mr. Roe asked the Council for direction that evening, some Councilors suggested going out to bid and Mr. Zandri made it clear to everyone that the Recycling Center would be closed the following morning.

Mr. Gouveia and Atty. Small did credit Mr. Roe and the Recycling Committee with working very hard and closely with Admet to reach an amicable solution for all parties involved.

Mr. Mario Tolla, Recycling Committee member felt that he has done everything that he could possibly do to keep Admet in the Town. The Recycling Committee had nothing to do with the amended contract that is before the Council this evening, according to Mr. Tolla. The Committee has not had any input in the negotiations that have been taking place over the recent months. It was the Ad-Hoc Committee that has been involved. It consists of the Mayor, Don Roe, Mario Tolla, Geno Zandri, Jr., Stephen Deak and on occasion, Phil Hamel. Mr. Tolla pointed out that when Mr. Zandri stated to the Council that the Recycling Center most likely would be closed the following morning, it was not to be closed due to the lack of a contract but rather the choice of Admet in their refusal to operate at a loss.

Mayor Dickinson reminded everyone that the issue here this evening is whether or not the Town is prepared to enter into a contract with Primary Recycling. If not, what direction does the Town proceed in?

Mr. Parisi asked if Primary Recycling would be willing to quote a price to operate the facility for three days service as opposed to five?

Mr. Walt Sawallich, Jr., Primary Recycling agreed to look at that possibility, however, he did feel that it would be difficult to find help for only three days out of five.

Mayor Dickinson outlined the proposal for a clear understanding of the responsibilities of both parties involved.

Mr. Bradley asked what a properly permitted Resident Drop-Off Site is?

Mayor Dickinson responded that he believed the Town has a permitted Resident Drop-Off Site now. Mr. Roe agreed.

Mr. Parisi asked why the Town must supply an office?

Mr. Sawallich reminded the Council that this is an interim agreement for six months.

Mr. Parisi inquired as to how long it would take to provide the Town with an estimate on the cost of operating the facility three days a week?

Mr. Sawallich was not in favor of doing so. If it was absolutely

Atty. Small was concerned and reminded the Council that whichever proposal is chosen, they must be satisfied that the numbers (dollars) are based in reality. The problem with Admet was that the bottom fell out of the market and the numbers were not based on reality. They presented a best guess estimate in a newly formed operation.

Mrs. Duryea felt that the figures were much more realistic this time around as opposed to Admet's initial prices.

Mr. Killen asked how the Council can bring back the issue from last week to re-vote on it?

Mr. Holmes stated that the item can only be brought back before the Council on the same evening.

Mayor Dickinson pointed out that Robert's Rules of Order governs the conduct of a given meeting. At that meeting you don't want someone to continually bring back an item and take up all the time of the meeting so no other business can be transacted. The Rules of Order does not extend from one meeting to a future meeting. The only time is when a meeting is continued. When it is a new meeting any item can be brought back, there is not prevention to discuss any item at another time.

Mr. Killen did not feel that an item voted upon at a previous meeting should be brought back to be re-voted upon because the vote was tied and someone was absent.

There was much discussion surrounding the issue of bringing items back to the business of the Council if they have been voted upon at a previous meeting. Robert's Rules of Order as well as the Town Council Meeting Procedures were cited in several instances.

Brian McDermott, 359 N. Elm Street asked that the issue of extended hours introduced by Mr. Parisi at last week's meeting be clarified since now Mr. Parisi is requesting a cost for cutting back operation to only three days per week.

Mr. Parisi explained that he requested one day of operation be extended in hours to allow working individuals the opportunity to have access to the facility. One of the three days could have extended hours.

Mr. McDermott was in favor of the extended hours of operation.

Mr. Edward Musso, 56 Dibble Edge Road suggested an impracticable schedule of operation for the center.

Motion was made by Mr. Holmes to Waive the Bid to Accept Primary Recycling's Proposal to Operate the Recycling Center for a Period of Six Months. Seconded by Mr. Parisi.

VOTE: Papale & Solinsky were absent; Gouveia abstained; Holmes & Parisi, aye; all others, no. Motion failed.

necessary, he would do so.

Mr. Parisi felt it was absolutely necessary.

Atty. Small wanted it to be understood that Primary Recycling's offer a proposal, it is not the actual contract. Some aspects of the proposal were vague such as damages associated with the breaching of a contract by either party, penalties and contract renewal options. Those issues will need to be clarified in the contract.

Mr. Gouveia wanted it noted that he harbored no hard feelings towards Mr. Sawallich personally. He asked the Mayor what costs were contained in the \$10,500 for Residue Disposal and Site Improvements combined?

Mayor Dickinson responded that that total reflects costs of one-time capital improvements, not on-going operational participation or maintenance. Snow removal, sanding, police patrol, the provision of electrical power, security, sewer hook-up, etc., would all have to be priced out.

Mr. Gouveia asked if those costs were included in Admet's contract?

Mr. Roe responded, yes they were.

There were no figures available at this time pertaining to what it will cost the Town to clean up the existing materials at the site prior to the start of the new operation.

Mr. Gouveia asked if the D.E.P. Permit is issued in the name of the Town of Wallingford or Admet? Would there be any impact on the permit at all whether or not Admet is operating the center?

Mr. Roe responded that the permit is based on vendor information provided by the vendor on their method of operation, equipment, processing system, etc. New information would have to be re-submitted to D.E.P. The Town makes application to the D.E.P. with the information obtained from the vendor. We have received the permit to construct. There were two impediments to becoming fully permitted to operate, one was that the equipment needed to be put in place for D.E.P. to come down and inspect it, and the second was that the drop-off facility was not operating in compliance with D.E.P.'s permitting regulations, Mr. Roe did not think it made sense to have the D.E.P. come down to cite us for lack of compliance.

Mrs. Duryea asked if the contract presented at the meeting of August 6, 1991 by Admet can be re-reviewed if Primary's contract fails this evening?

Atty. Small stated that the Council is not barred from dealing with Admet at this point. It could be the same contract offered as last week but it would be a new contract.

Mrs. Duryea realized that there were problems before with Admet, however, the bottom line was price.

ITEM #3 Executive Session Pursuant to Section 1-18a(e)(2) of the General Statutes to Discuss Strategy with Respect to Pending Litigation Requested by Town Attorney Janis M. Small.

Motion was made by Mr. Bradley to Move Into Executive Session, seconded by Mr. Holmes.

VOTE: Papale & Solinsky were absent; all others, aye; motion duly carried.

Motion was made by Mr. Bradley to Exit the Executive Session, seconded by Mr. Parisi.

VOTE: Papale & Solinsky were absent; all others, aye; motion duly carried.

Motion was made by Mr. Bradley to Adjourn the Meeting, seconded by Mr. Parisi.

VOTE: Papale & Solinsky were absent; all others, aye; motion duly carried.

There being no further business, the meeting adjourned at 8:51 P.M.

Meeting recorded and transcribed by:

*Kathryn F. Milano*

Kathryn F. Milano, Town Council Secretary

Approved by:

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Albert E. Killen, Town Council Chairman

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Date

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Kathryn J. Wall, Town Clerk

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Date

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