

CITY CLERK MEMORANDUM

15-70

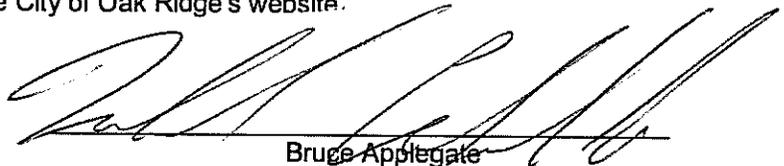
DATE: November 12, 2015
TO: Honorable Mayor and Members of City Council
FROM: Bruce Applegate, Acting City Clerk
SUBJECT: ADDITIONS TO THE NOVEMBER 16, 2015 CITY COUNCIL AGENDA

The following information is provided as an addition to the November 16, 2015 City Council agenda packet:

- Backup information is attached for the Placeholder Item listed on the agenda under Resolutions, Item G, pertaining to the transmittal of comments to the U.S. Department of Energy, the U.S. Environmental Protection Agency, and State of Tennessee Department of Environment and Conservation on the proposed environmental management disposal facility. The attached material includes City Council Memorandum 15-47, the resolution, and proposed comments.
- A new item is attached pertaining to the extension of the existing water services contract between the City and the U.S. Department of Energy through March 31, 2016. The attached material includes City Council Memorandum 15-46 and the resolution. This item would become Item H under Resolutions.

City Council will need to consider an amendment to the agenda to formally include the aforementioned items.

This information has also been posted on the City of Oak Ridge's website.



Bruce Applegate

Attachments

cc: Mark S. Watson, City Manager
Kenneth R. Krushenski, City Attorney
Department Directors
Knoxville News Sentinel
The Oak Ridger
Oak Ridge Today
BBB Communications Channel 12

CITY COUNCIL MEMOANDUM
15-47

DATE: November 12, 2015
TO: Honorable Mayor and Members of City Council
FROM: Mark S. Watson, City Manager
SUBJECT: CITY OF OAK RIDGE COMMENTS ON THE U. S. DEPARTMENT OF ENERGY
PROPOSED ENVIRONMENTAL MANAGEMENT DISPOSAL FACILITY

Introduction

An item for City Council's consideration is a resolution approving the submittal of a letter signed by the Mayor transmitting *City of Oak Ridge Comments on the U. S. Department of Energy Proposed Environmental Management Disposal Facility*, dated November 16, 2015, to the U. S. Department of Energy, the U. S. Environmental Protection Agency, and the Tennessee Department of Environment and Conservation as the official comments of the City of Oak Ridge.

Funding

Project funding and perpetual maintenance operations will be provided by the Department of Energy or its successor. Official reviews are being conducted by Tennessee Department of Environmental Quality (TDEQ) and the Environmental Protection Agency (EPA), while the Ferguson Report has been conducted by the City of Oak Ridge, as funded by the Oak Ridge Reservation Community Alliance (ORRCA).

Background

The City of Oak Ridge has been invited to comment on the proposed development of a new landfill site adjacent to the present location of the Environmental Management Waste Management Facility (EMWMF). The new landfill, to be known as Environmental Management Disposal Facility (EMDF), is proposed at 2.5 million cubic yards capacity, and will be used for disposal of demolished Y-12 and ORNL facilities. The earlier landfill, EMWMF, is presently being filled with content from the K-25 campus. The facility will contain low level radionuclides due to absorption and within the content of the demolished buildings.

The Department of Energy proposal is being reviewed by the state and federal agencies. Solicitation of comments from the community is being made. City staff has developed the attached letter outlining several community based concerns that should be considered by DOE as this project moves forward. Comments include: (1) consideration and response to concerns expressed in the Ferguson Report, (2) addressing any proximity issues associated with Oak Ridge residents, (3) Protection measures taken to address underground aquifer and drainage issues, (4) several landfill management explanations, (5) ongoing public information program suggestions, (6) perpetual care trust fund recommendations, (7) PILT Value for Landfill properties, (8) completion of infrastructure replacements at K-25, and (9) annual community reports on landfill usage.

Recommendation

Approval of the attached resolution is recommended.


Mark S. Watson

Attachments

RESOLUTION

A RESOLUTION TO TRANSMIT THE DOCUMENT ENTITLED *CITY OF OAK RIDGE COMMENTS ON THE U.S. DEPARTMENT OF ENERGY PROPOSED ENVIRONMENTAL MANAGEMENT DISPOSAL FACILITY* TO THE U.S. DEPARTMENT OF ENERGY, THE U.S. ENVIRONMENTAL PROTECTION AGENCY, AND THE TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION AS THE OFFICIAL COMMENTS OF THE CITY OF OAK RIDGE.

WHEREAS, the U.S. Department of Energy (DOE), the U.S. Environmental Protection Agency (EPA), and the Tennessee Department of Environment and Conservation (TDEC) are parties to a Federal Facilities Agreement which sets forth schedules and enforceable milestones for the completion of cleanup work on and related to the DOE Oak Ridge Reservation; and

WHEREAS, the Federal Facilities Agreement schedule requires that a decision to construct a second low-level nuclear waste facility on the DOE Oak Ridge Reservation must be made in early 2016; and

WHEREAS, the City of Oak Ridge desires to officially comment to DOE, EPA, and TDEC regarding the proposed waste facility in order to provide early community input at this stage in the decision making process; and

WHEREAS, the City Manager recommends transmittal of the attached document entitled *City of Oak Ridge Comments on the U.S. Department of Energy Proposed Environmental Management Disposal Facility* as the official comments of the City of Oak Ridge.

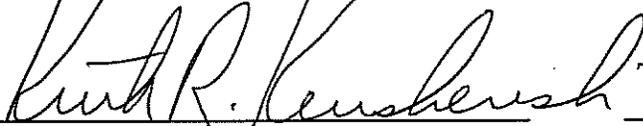
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the recommendation of the City Manager is approved and the attached document entitled *City of Oak Ridge Comments on the U.S. Department of Energy Proposed Environmental Management Disposal Facility* shall be transmitted to the U.S. Department of Energy, the U.S. Environmental Protection Agency, and the Tennessee Department of Environment and Conservation as the official comments of the City of Oak Ridge.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the appropriate legal instruments to accomplish the same.

This the 16th day of November 2015.

APPROVED AS TO FORM AND LEGALITY:



Kenneth R. Krushenski, City Attorney

Warren L. Gooch, Mayor

Bruce M. Applegate, Jr., Acting City Clerk

**City of Oak Ridge Comments on the U.S. Department of Energy
Proposed Environmental Management Disposal Facility**

November 16, 2015

The City of Oak Ridge understands that the U.S. Department of Energy (DOE), the U.S. Environmental Protection Agency (EPA), and the Tennessee Department of Environment and Conservation (TDEC) are parties to a Federal Facilities Agreement (FFA), which sets forth schedules and enforceable milestones for the completion of cleanup work on, and related to the DOE's Oak Ridge Reservation (ORR). To meet the current FFA schedule, DOE has determined that a decision to construct a second low-level nuclear waste facility on the ORR in Oak Ridge must be made in early 2016. The proposed second facility is being referred to as the Environmental Management Disposal Facility (EMDF).

For the previous decade, the DOE has concentrated on the elimination of contaminated and dilapidated structures associated with the K-25 Building campus, including K-25 which was one of the largest buildings in the world and required total demolition. Ongoing efforts continue to reclaim this major brownfield site. The existing landfill, the Environmental Management Waste Management Facility (EMWMF) is anticipated to contain the full amount of low level radioactive debris and soil generated from the K-25 site.

To ensure capacity for the waste anticipated from future environmental cleanup, DOE is proposing to establish an additional landfill with capacity for an additional 2.5 million cubic yards of cleanup waste, to be located adjacent to the existing site and on the Oak Ridge Reservation. As this new site is considered, the City submits the following comments regarding the proposed waste facility in order to provide a community perspective and early community input to the FFA parties at this stage in the decision making process. Additional comments will be submitted as the process proceeds and the City of Oak Ridge would reserve the right to do so as further information and data are provided from state and federal agencies reviewing the siting process as parties to the Federal Facilities Agreement (FFA) to which the City of Oak Ridge is not a party.

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1. In July 2014, the City of Oak Ridge contracted with the consultants, The Ferguson Group of Washington D.C., to develop a Community Impact Assessment of the DOE's proposed Environmental Management Disposal Facility (EMDF). The City was particularly concerned with impacts of the proposed landfill on the community. The consulting team gathered community input at several public meetings in Oak Ridge, and solicited information from DOE and contractor officials, TDEC, local government officials, and members of the public. In addition, the consulting team analyzed DOE's technical documents related to the proposed EMDF, as well as the detailed comments submitted to DOE by TDEC and the U.S. Environmental Protection Agency (EPA) about the DOE's proposed landfill plan. The Community Impact Assessment was finalized in September 2015. **The City urges DOE, EPA and TDEC to review the full assessment and requests specific response to the City regarding the recommendations contained within the Ferguson Group report.**
 2. Local concerns raised in the community assessment about the proposal EMDF include:
 - The site-selection process is confusing. Siting criteria differ from those

normally used by DOE and the Nuclear Regulatory Commission (NRC). For instance, experts identify the proposed site would not qualify under NRC standards and processes for siting of a low-level radioactive waste facility. For example, the proposed site is 650 yards (about 550 meters) from the DOE boundary and the nearest resident (on a large tract accessed from the unpaved part of Tuskegee Drive) is just 1.3 km away, differing from the 2 km NRC minimum. (Scarboro residential community is 2.1 km away). **Further clarity, response and assurance is requested to address proximity of residents.**

- The proposed site is physically and geologically complex, and doesn't qualify under TDEC criteria that require separation from groundwater sources. **Detailed summary of these protection measures are requested.**
- Concerns about long-term integrity of the proposed engineering measures to divert groundwater and surface water. **Please explain.**
- DOE cost estimates for offsite disposal are based on what DOE is currently paying at the Western United States private facilities, but prices might be less if DOE were to dispose of larger amounts of waste with lower levels of radioactivity in eligible regional landfills. **Also, the cost estimates for landfill construction and operation cover only 5 out of the 6 waste cells.**
- DOE proposes to put mercury waste from Y-12 into this landfill, but RCRA land disposal restrictions don't normally allow mercury to be disposed in RCRA-licensed hazardous waste landfills. **Please clearly identify intent to use or not use the proposed landfill for mercury disposal.**
- Landfill management, performance and efficiencies related to the existing landfill are essential to the community. DOE must efficiently use the capacity of the existing landfill and a proposed landfill – Instances may have occurred where waste didn't need to be handled as radioactive waste. For instance, clean soil has been used to fill void spaces instead of breaking up the debris for more efficient disposal. **Please identify management practices that will be used as "lessons learned" from management of the existing landfill and initiated on to maximize the proposed EMDF landfill.**
- The association with long term nuclear activities and radioactive waste has had challenging economic impacts and public image effects on the community. This potentially impacts current and future property values and continued Oak Ridge economic growth. The proposed site for the EMDF is in the Southwest Quadrant, which is one of the few remaining areas of the city suitable for future development. Quantifying how the proposed landfill may adversely impact the community's competitive ability to attract new residents, including young families, should be addressed. **The City of Oak Ridge suggests that a continuous public information program be provided by the DOE Environmental Management Division or its successor for regional understanding and clarification of community understanding of landfill impacts and information.**

3. The City of Oak Ridge expresses strong concern for the immediate availability of federal funding for corrections and repairs to future unanticipated hazardous material events. Noting the re-mining costs of similar facilities in Ohio, available funding for a similar effort is not available in the existing maintenance fund. The Federal government is going through a continuous downsizing of domestic agenda items in the federal budget. With declining budgets, major funds must be available for re-mining costs or repairs without impacting the current missions. Private waste

sites licensed by the NRC are required to put more money into long-term care funds such as financial assurance bonds than DOE has paid into the perpetual care maintenance trust fund for the existing nuclear waste landfill (presently at \$15M). The existing trust fund was required by, and is managed by the State of Tennessee. It is unclear where funds would come from should a substantial breach or other emergency arise related to the existing landfill that exceeds existing funding levels. There is no mention of additional financial assurance requirements in the existing draft documents. **The City of Oak Ridge strongly suggests that a continued contribution to the perpetual trust account on this project be mandated at a contribution of \$1M per year until the fund reaches an amount of at least \$50M as administered by the current FFA.**

4. **The proposed EMDF provides an enormous benefit to the taxpayers of United States if debris remains perpetually in Oak Ridge, Tennessee.** The documents reviewed to date do not provide a detailed cost/benefit analysis or a life cycle cost analysis that quantifies the community costs associated with permanent waste disposal. This decision will necessitate a permanent land use restriction and a perpetual commitment to maintenance and oversight of the facility. The City of Oak Ridge receives a Payment in Lieu of Taxes (PILT) at an agricultural value for the financial support of the DOE Reservation. However, our city services must be at a level of response and training that is greater than most small-city capacities when called for service. **As part of the hosting of this site, financial compensation to the community for this EMDF site should be substantially adjusted and increased representing a new value per acre for the City and Anderson County.**

Most private waste disposal sites, for example, provide direct financial benefits to the host communities and such should be provided for the EMDF site. Near-term jobs associated with on-site disposal could be offset by opportunity costs stemming from prospective employers not wanting to invest near a low level nuclear waste landfill. Conversely, there are several existing Oak Ridge companies which would benefit by assisting DOE and its contractors with implementation of alternative waste disposal options, including offsite disposal at other federally owned or commercial sites where the climate is comparatively dry.

5. The Department of Energy has noted consistent change in the federal employees and contractors for the environmental cleanup projects on the DOE Reservation. In the late 1990s, the City was urged to participate in the Partners for Progress program which was to convert the large K-25 brownfield site into active industrial redevelopment. The City of Oak Ridge has made substantial capital utility investment into the area and is still waiting for completion of sufficient cleanup to allow full and active reindustrialization through the transfer of land and replacement of utility infrastructure. A recent Technetium release into the City's sewer system demonstrates the need for completion of the site cleanup project, including underground infrastructure.

The City of Oak Ridge is ready for the K-25 redevelopment area to be completed. With the advent of a new General Aviation airport in the 2018 timeframe, it is time to get the job done, so redevelopment can occur. The City is informed that the existing EMWMF Landfill is for purposes of the K-25 complex. **The City of Oak Ridge strongly suggests that a Memorandum of Understanding be signed**

between the DOE and the City of Oak Ridge that addresses annual benchmarks and an annual financial commitment in the Environmental Management budget dedicated to the progress toward complete redevelopment of the K-25 site prior to the opening of the proposed EMDF.

6. The existing landfill and proposed landfill are required to keep records on all material being placed in the landfill. The City of Oak Ridge as a non-party in the FFA group, believes transparency is needed regarding the material permanently committed to lands within the Oak Ridge city limits. Accordingly, DOE should make an annual report to the community on waste disposal in the existing and proposed landfills.

The City of Oak Ridge, Tennessee thanks the Department of Energy for the opportunity to comment on the proposed EMDF landfill. We believe the City of Oak Ridge understands the national, statewide, countywide and local impacts of this important proposal. The City of Oak Ridge believes in **Safe, Responsible Environmental Management** on the Oak Ridge Reservation. With proper protections in place and educated public understanding, the needs of the Department of Energy and the adjacent community can cooperate in a government to government partnership for many years to come.

Respectfully submitted,

Warren L. Gooch, Mayor
City of Oak Ridge, Tennessee

CITY COUNCIL MEMOANDUM
15-46

DATE: November 12, 2015
TO: Honorable Mayor and Members of City Council
FROM: Mark S. Watson, City Manager
SUBJECT: EXTENSION OF DOE WATER CONTRACT

Introduction

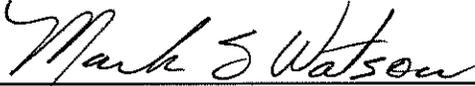
An item for the agenda is a resolution to extend the current water services contract between the City and the United States Department of Energy through March 31, 2016.

Background

The City of Oak Ridge and the Department of Energy (DOE) have been in the process of re-negotiating a contract for a new period extending after current expiration on December 31, 2015. Substantial progress has been made with current discussions on rates and capital expenditures. To allow sufficient time for an agreement of terms to be completed, it is suggested that the present term be extended to allow time for Council adoption of ordinance changes and DOE reviews.

Recommendation

Approval of the attached resolution is recommended.



Mark S. Watson

Attachment

RESOLUTION

A RESOLUTION TO EXTEND THE CURRENT WATER SERVICES CONTRACT BETWEEN THE CITY AND THE UNITED STATES DEPARTMENT OF ENERGY (DOE) THROUGH MARCH 31, 2016.

WHEREAS, by Resolution 4-47-98, City Council approved a Memorandum of Understanding between the City and the United States Department of Energy (DOE) to transfer the Y-12 Water Plant from DOE to the City; and

WHEREAS, the transfer documents included a water services contract whereby DOE purchases water from the City; and

WHEREAS, the water services contract had an original term of ten years (May 1, 2000 through April 30, 2010) with DOE having the option to extend for up to six (6) months; and

WHEREAS, DOE exercised its option to extend through October 31, 2010; and

WHEREAS, by Resolutions 10-98-10, 6-46-11, 5-34-2012, and 9-69-2012, City Council amended the water services contract to provide for additional extensions through December 31, 2012; and

WHEREAS, by Resolution 12-103-2012, City Council approved a modification of the water services contract to set forth a new pricing structure and other necessary modifications, as well as extend the contract through December 31, 2015; and

WHEREAS, the City and DOE desire to extend the existing water services contract through March 31, 2016 to allow the parties time to continue negotiations regarding contract modifications; and

WHEREAS, the City Manager recommends approval of the water services contract extension.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAK RIDGE, TENNESSEE:

That the City is hereby authorized to enter into the necessary legal documents to extend the water services contract between the City and United States Department of Energy (DOE) through March 31, 2016.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to execute the appropriate legal instruments to accomplish the same.

This the 16th day of November 2015.

APPROVED AS TO FORM AND LEGALITY:


Kenneth R. Krushenski, City Attorney

Warren L. Gooch, Mayor

Bruce M. Applegate, Jr. Acting City Clerk