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Date: July 12, 2022

To: Benton County Board of Commissioners From: Sam Imperati, JD, ICMresolutions Executive Director

RE: Benton County Solid Waste Situational Assessment Report

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INTRODUCTION

Benton County contracted with Oregon Consensus (OC) ([Website](#)) to conduct a process assessment; not an assessment of substantive issues. OC sent an informal solicitation to its provider network and received four responses. ICMresolutions was one of four submittals. Sam Imperati, ICM's Executive Director, [Appendix A](#), was selected by the County, in consultation with OC, to perform the Assessment. This is the final report.

The Scope of Work follows:

Benton County and key stakeholders seek assistance identifying and implementing a constructive path forward relating to sustainable materials management and the future of solid waste disposal in the Mid-Willamette Valley, including at the Coffin Butte regional landfill. Following a recent Benton County Planning Commission denial of a proposed conditional use permit to expand the landfill, key participants recognize that a constructive path forward could benefit from the assistance of a third-party facilitator. Key stakeholders believe that an objective assessment of the situation, conducted by an impartial third party, would be a good first step. (Emphasis added.)

As the Assessment progressed, related issues arose as noted below. Commenting on them, and making recommendations for their improvement, are necessary for a thorough analysis and holistic recommendations.

PHILOSOPHY

The best assessors are both fiercely independent and influenced by their core philosophies about conflict and conflict resolution. I provide mine so you know upfront the default views that underlie my observations and recommendations.

Fair process is fundamental to fair outcomes, period. Good process shouldn't help or hurt either side of an argument. Process should be agnostic. When pure power is used to tilt the outcome, it is by my definition, problematic. Pareto Efficiency ("a situation where no further improvements to community's wellbeing can be made through a reallocation of resources that makes at least one person better off without making someone else worse off") is not achieved, and the predictable result is polarization.

It is human nature to look for competitive process advantage, especially in the short run, but at what cost to the broader community over time? The "team" who currently enjoys power contends they should be able to dictate the process because "elections have consequences." The "other team" calls "process foul" and the impacted community is further split apart or left confused in its search for fair results. A healthy community thrives if its processes are designed to resolve issues on their respective merits – not on the views of those holding power. If we look to power to resolve disputes, each member of the community will eventually be at risk. Restated, good process is a goal in and of itself! As a result, the below observations and recommendations are driven by the need for a fair process for the Benton County community-at-large.



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PROCESS

An Assessment, by its nature, cannot hear directly from each of the affected stakeholders. For example, I did not have sufficient time to interview many of the individuals that provided testimony and comments to the Planning Commission. However, I am aware of their views, and the interviewees did an excellent job of pointing out the concerns of the broader public (e.g., neighbors, users, businesses, organizations, and institutions.) Traditionally, processes that flow from an Assessment are designed to include a robust public involvement component with opportunities for input, as contemplated by the recommendations that follow.

I interviewed each member of the Solid Waste Advisory Council (SWAC)/Disposal Site Advisory Committee (DSAC), each member of the Board of Commissioners (BOC), one member of the Planning Commission (PC), one member of the public, national and local Republic Services' employees, and Benton County Staff. I also spoke with Republic Services' local attorney and the attorney for some of the neighbors, each in a preliminary fashion. The people interviewed were open, cooperative, and forthcoming.

The interviews covered the following topics:

- 1) Potential Substantive issues
- 2) Membership Options
- 3) Potential Challenges (HOPES and CONCERNS from a process perspective)
- 4) Potential "Voting" Options
- 5) Process Questions:
 - a. How long (months, number of meetings, etc.) do you think it will take to explore the issues in the proposed scope?
 - b. How can Benton County be most helpful?
 - c. How can the facilitation team be most helpful?

A draft of this report was sent to the people interviewed. Their comments and suggestions were appreciated. I reviewed the input with an open mind based upon my experience with what has traditionally worked best in similar situations, and made the changes I think are in the best interests of the broad Benton County community. Some of the feedback involved details that are commonly developed after the Board provides its input on the general process construct, so they are not specifically addressed here.

Commentators that would like to discuss my reasoning for not adopting their suggestions can contact me at either SamImperati@ICMresolutions.com or (503) 244-1174. I encourage the interviewees and the public to send their comments to you because healthy feedback is essential as you consider a "constructive path forward."

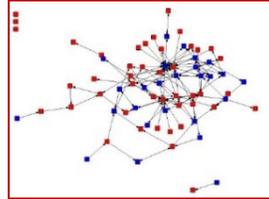
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OBSERVATIONS

Here are the observations that set the stage for the recommendations that follow.

- 1) The essential elements of a healthy civic relationship include:

- a. *Supported Values*;
- b. *Mutual Goals*;
- c. *An Effective Accountability Mechanism*;
- d. *Trust*; and
- e. *Respect*.



- 2) This situation is the classic “wicked problem” because each of the above elements are strained. “Wicked Problems” have the following characteristics, which are typical of landfill issues because they tend to be controversial.



The last Republic Services’ Conditional Use Permit (CUP) process resulted in a great deal of polarization, debate prevailed over exploration, and basic facts were either unknown or contested. The same dynamics existed surrounding the relevant law, codes, and policies. The lack of *Trust* and *Respect* became personal in some situations. That will not likely change until the participants work together to develop *Values*, *Goals*, and a *Supported Accountability Mechanism*.

- 3) Without getting the participants on the “same page” first, any subsequent discussion will likely experience similar “wicked” dynamics. Restated, “common understandings” are essential for the ultimate decision makers to have available as they review a future CUP application and Solid Waste Management Plan (SWMP,) now commonly referred to by the County as a Sustainable Materials Management Plan (SMMP.) The latter includes the consideration of more options/alternatives (e.g. transfer stations, etc.) than just disposal for the entire consumer lifecycle, along with overall greenhouse gas generation. The below Recommendations provide a process for creating the necessary “common understandings.”

- 4) Here are three telling examples of questions where the answers should be commonly accepted, but are not currently.

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- a. *When will the landfill close?* There have been a range of dates proffered and it is obvious they vary by the underlying data and assumptions, not all of which are known by all of the participants. That situation leads to the ability of each side to state a date they believe creates the best argument for their position.
- b. *Will DEQ permit another landfill west of the Cascades?* I have heard “yes” and “no” answers to that question, stated with certainty and passion, making it difficult for the impartial observer to know the truth.
- c. *What does the “regional landfill” designation mean?* I have been told 1) it is nothing more than a label for facilities of a certain size, and 2) it means Benton County has restrictions on what conditions it may impose on a landfill operator.

Without more objectively verifiable information, the impartial observers and ultimate decision makers are left to complete a puzzle without the necessary pieces. The matter is made worse by the lack of clarity surrounding the CUP criteria and type/quality of information needed for the best result, be it approval or denial.

- 5) While I have sat on the bench as a Judge Pro Tem, if I were asked to “judge” the relative merits of the various positions, I would conclude I do not have sufficient reliable information from independent sources to do so. I believe the County decision makers would be hard pressed to make the best choice for the residents of Benton County unless the process and access to the necessary information were meaningfully improved. Without those, it will be ‘politics as usual.’
- 6) The default land use process (Application – Staff Review – SWAC – PC – BOC – LUBA, Courts) has challenges to widely accepted outcomes because it is quasi-judicial in nature. It does not provide for exploration because it is based upon a point-counterpoint dynamic with no authentic opportunity to “test” the evidence of others, let alone truly explore the situation in hopes of developing collaborative solutions. This leads to further frustration and polarization.
- 7) Revamping the default legal system, per se, (which is beyond my scope and expertise) would take too long to help the current challenges and would require participation by the Oregon Legislature and others. However, there are improvements that can be made prior to the next CUP. Without the below recommendations in place, I predict the process and its result (be it approval or denial) will lead to the same challenges as last time, especially if there is a lack of timely transparency as some allege existed last time.
- 8) It is possible each side of this debate believes they will prevail under the default system, so they may not be enthusiastic about a process prefatory to it. Speaking bluntly, if you have two votes you will win, and if you don’t, you will lose. If that is the preferred way to make policy, a collaborative process would be only for show. Having said that, I believe the people interviewed will participate fully in a collaborative process.
- 9) Another factor underlying dynamics is the lack of an up-to-date Sustainable Materials Management Plan (SMMP.) Benton County does not have a current or conventional plan, as compared with plans like those from [Deschutes County \(2019\)](#) or [Marion County’s Solid Waste and Energy Final Report \(2017\)](#). There is a [1977 SWMP](#), which was created by Waste Control

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Systems, Inc., as part of a 1975 landfill CUP condition of approval. However, that plan is dated and lacks current relevancy to the County's current materials management operations.

The following documents are more relevant to the current discussions because they focus on material recovery in the County and were prepared to meet Oregon DEQ requirements at the time. However, these plans do not include an in-depth discussion of disposal elements, which they should, even if it's not the driving focus.

- [Benton County Wasteshed Waste Recovery Plan Update \(2011\)](#)
- [Benton County Wasteshed Waste Recovery Plan for 2005-2009 \(2002\)](#)

While one could argue, as some have, that the CUP and the master planning topics should be separate, it is important to remember this "bridge" process is about scoping/planning for the topics – nothing more. The recommended Charge below does not include a discussion of them on their merits. Planning for them simultaneously is the most efficient option to achieve a "constructive path forward."

10) The following options were considered during the Assessment:

- a. Doing Nothing Different Than Last Time;
- b. Pre-CUP Application Process to Improve Next CUP Process;
- c. Process to Scope the Next SMMP; and
- d. Both Options b and c.

RECOMMENDATIONS

Here are the highlights of the recommended "bridge" process for the Board of Commissioners to consider. As you will see, I am suggesting a process to reset the current dynamics with the development of "common understandings" and protocols for the future substantive consideration of the solid waste issues. Please note additional details will be worked out if the BOC approves the general framework. (Examples include the sequencing of issues and the time spent on each topic, etc.) The proposed elements are presented as a "package" meaning that when modifying one element, the reviewer should consider the potential for unintended consequences to the other elements. I am available to provide experiential insights on this topic.

I do not suggest the recommended process will fix this "wicked problem." I simply suggest it is more likely to manage the dynamics in a way designed to increase the chances of an outcome that is in the best interests of the broader Benton County community. The odds of that happening will increase with the Board's capable leadership.

- 1) **VACANCIES:** The Board should fill the vacant SWAC/DSAC (see, [ORS 459.320](#) re: DSAC) and Planning Commission seats. As with any advisory body, consider the advantages of having a diversity of interests represented.
- 2) **DEVELOP COMMON UNDERSTANDINGS:** The County staff should draft for Workgroup review and input before staff finalizes it, a document that covers the informational topics listed in this

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section. It is particularly important to get everyone on the “same page” before work on the Charge begins in earnest. If not done, the Workgroup will likely experience the same dynamics that occurred during the last CUP application. Additionally, these common understandings are essential for the ultimate decision makers to have when they are reviewing a CUP application.

- a. **A History of Coffin Butte** that includes tables with information like size, specific locations, CUP conditions, reporting requirements, rights, obligation, assumptions, the economics, and prior CUP/SWMP compliance, etc. They should be presented in chronological order for ease of comparison. Additionally, a section summarizing best practices for jurisdictions hosting landfills, typical terms, and issue sequencing, etc., should be included in this document.
 - b. **A Summary of the County’s current rights and obligations to Republic Services,* and vice versa**, surrounding the landfill and hauling franchises, including what can and cannot be conditions of any CUP (e.g. past compliance, compliance with future laws, codes, and policies, DEQ compliance, reopening, limitations on what can be brought into the County from where, required facilities and practices, reporting/compliance/financial monitoring requirements, etc.) *Includes Valley Landfills, Inc. and those signatories to the various hauling franchises.
 - c. **A Summary of the rights and obligations of other entities** (e.g. federal, tribal, state, and local government) and their interplay with the Benton County process surrounding landfills, hauling, and sustainability initiatives, etc. For example, this document should include a detailed summary of the step-by-step process and associated timing for the cross-jurisdictional approvals of landfill applications, (e.g. DEQ) including what topics are within whose authority, and whether, for example, the County can or should consider the topics it does not have permitting authority over when assessing the criteria outlined in Code section 53.215.
- 3) **WORKGROUP and ITS CHARGE:** The Board should create a temporary workgroup called, “Benton County Talks Trash.” *(Sorry, couldn’t resist!)*

Using the “common understandings” above, the established Workgroup should make recommendations to the BOC on the following topics, which are presented without reference to priority. The Workgroup, with concurrence of the County staff, will prioritize these topics, create subcommittees if necessary, and allocate meeting times accordingly.

- a. **Clarifying existing criteria and information requirements for the CUP process.** For context, the Comprehensive Plan can be found [here](#). It provides the foundation for Benton County land use policy and serves as the defining framework for the Development Code when questions of interpretation arise, including questions about what might be included in “other information” required for a complete CUP application.

Code Section 50.015 states:

The policies of the Comprehensive Plan shall serve as the basis for developing the implementing regulations of the Development Code.

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The policies of the Comprehensive Plan are not implementing regulations and shall not be directly applied to individual applications except as provided by the Development Code. When the interpretation of a particular Development Code provision is in doubt, the Comprehensive Plan shall be referred to for policy guidance.

This sets the foundation for the [Development Code](#). Section 50.005(1) states, “The Benton County Comprehensive Plan, including the Comprehensive Plan Map, is hereby incorporated by reference into the Benton County Code.” Section 51.010 Scope, states, “The Development Code is intended to implement the Benton County Comprehensive Plan. All amendments to the Development Code shall comply with the Comprehensive Plan.”

Code Section 51 also outlines relevant authorities, including the roles of the Planning Official and the Planning Commission to interpret the Code, determine the scope of issues, and set the process.

With the Comprehensive Plan’s [Table of Contents](#) providing a list of potential considerations, and Chapters 50 and 51 as context, please see the [Appendix B](#) for specific Code sections that should be reviewed, at a minimum, with particular attention to Sections 53.215 (Criteria,) 77.305 (Conditional Uses,) 77.310 (Review,) and 77.405 (DEQ.) Additionally, consider the comments the Planning Commission made during its last review of Republic Services’ CUP application.

The Workgroup should develop a conceptual list of applicable review criteria and guidelines for interpreting any ambiguous provisions. For example:

- i. The phrase, “Other information as required by the Planning Official” 77.310(e); and
- ii. The terms found in Section 53.215, e.g., “seriously interfere,” “character of the area,” “purpose of the zone,” “undue burden,” and “any additional criteria which may be required for the specific use by this code.”

Finally, the Workgroup should develop protocols for the timely and broad distribution of documents and materials to the public, other governmental entities, and internal committees, groups, and divisions.

This proposed Charge element does NOT include opining on the merits of Republic Services’ expected Coffin Butte application. It does not involve the actual writing of potential code language nor making recommendations that change the current steps in the existing CUP review process. The scope is limited to developing conceptual language for recommended review criteria and guidelines for interpreting any existing ambiguous provisions using the “Common Understanding” as guideposts. The Workgroup should be mindful of the legal parameters associated with its specific recommendations.

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- b. **Scoping the necessary tasks to start a Long-Term Sustainable Materials Management Plan process.** Consider topics like contracting out, subjects to be covered, who needs to be at the table beyond those in the County, and a workplan outline with a timeline for completion. Look to recent similar planning efforts across the state to assess what topics were included and what “lessons learned” should be brought forward in your process. This includes the development of the necessary protocols needed before beginning the actual planning process.

This charge includes topics beyond the landfill, and like it, the Workgroup should consider the cost-benefits from the perspective of who gains benefits, and who does not, in light of Code section 23.010 [Solid Waste Management] Purpose, which states, “In order to protect the health, safety and welfare of the people of Benton County and to provide a solid waste management program, it is declared to be the public policy of Benton County to regulate solid waste management to... [see actual language for list of potential topics.]” [Section 23.100](#)

This charge does not include completing the plan. It only includes a discussion of the preliminary scoping to start that planning process.

- c. **Provide input on the additional topics that were raised during the assessment.** In addition to considering making SMMP consistency/compliance a CUP condition, here are three other examples that would benefit from Workgroup input based upon the recommendations flowing from the other charges.
- i. Scope the necessary tasks to start planning for the reopening of the existing hauling agreement to be amended by July 1, 2024 ([Solid Waste Collection Franchise Board Order D2022-044: Order](#)); and
 - ii. Clarify the differences, with BOC feedback, between the roles, responsibilities, and protocols of SWAC and DSAC, [Appendix C](#), on these topics, and develop specific review criteria for the evaluation of CUP applications. Related Question: “Should SWAC and DSAC use the same review criteria as the Planning Commission and the BOC?”
 - iii. Create a future timeline for discussing any needed changes to the Benton County Code flowing from any Workgroup recommendations.
- d. **Consider creating a public-facing document and community education campaign on these topics.** This is an “extra credit” recommendation and is subject to the availability of the resources needed to do so.

- 4) **MEMBERSHIP:** The Workgroup should have the following membership. There are two categories a) Member and b) Ex Officio. Members have full rights of participation and “polling.” Ex Officio members are “non-polling” information sources. Each may bring technical resources to the meetings. They will be able to participate in the discussions with permission of the

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Facilitator after a Workgroup discussion on the advantages and disadvantages surrounding their participation.

- a. *Two SWAC/DSAC Members* appointed by SWAC/DSAC.
- b. *Two Planning Commission Members* appointed by the Planning Commission.
- c. *Two Republic Services' (one local and one national) Members* appointed by Republic Services on Charge a. "Clarifying existing criteria and information requirements for the CUP process" and Charge c. i." Scope the necessary tasks to start planning for the reopening of the existing hauling agreement to be amended by July 1, 2024."

If the BOC wants Republic Services input on Charge b. "Scoping the necessary tasks to start a Long-Term Sustainable Materials Management Plan process," it should make them Ex Officio members and add other providers like Waste Management Inc., Ridwell, Recology, Rogue Disposal and Recycling, etc., as Ex Officio members. Another option is adding an organization like the Oregon Refuse & Recycling Association. ([ORRA](#))

- d. *Eight Members of the Public* who represent the following interests (e.g. landfill neighbors, service users, tribal interests, business, cities, OSU, Good Sam, non-profits, etc.,) appointed by the BOC. As with any advisory body, consider the advantages of having a diversity of interests represented. The Board may choose to seek input from the other members on its appointments. (It is important the members appointed have subject matter familiarity and the time/interest necessary to meaningfully participate.)
- e. *DEQ* as an Ex Officio Workgroup member.
- f. *Two neighboring jurisdictions* from outside the County, selected by the BOC, as Ex Officio Workgroup members, to liaison on the long-term solid waste planning topic only.
- g. *Benton County Staff*, picked by the County Administrator or his designee, participate as Ex Officio members.

The recommendation for an even number of Members is intentional because it is not a decision-making body. I do not suggest "voting" in the traditional sense. Instead, I recommend "polling" using the protocol outlined in [Appendix D](#). "Polling" is designed to see if consensus is possible. Typically, this allows the participants to explore the Charge in an efficient, transparent, and fair manner in order to give the County the information necessary to make the best decision for all its residents.

- 5) **PUBLIC:** Open to the public with opportunities for public input with materials timely posted on the County website. It is essential that the Workgroup deliberate in public and that their work is effectively publicized to increase community awareness of these important discussions.
- 6) **CONVENE:** As soon as possible.

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- 7) **MEETING FREQUENCY:** Meet in person or virtually, approximately twice a month for about 3-to-4-hours with a structured agenda designed to produce specific deliverables for each meeting. Meeting Summaries should be posted on the County's website so the public can follow the proceedings.
- 8) **SWAC/DSAC and PLANNING COMMISSION WORKGROUP REPORT REVIEW:** The Workgroup should submit its draft report to them for comment by 11/1/22 and they should submit their comments to the Workgroup by 12/1/22.
- 9) **FINAL REPORT:** The Workgroup should review the comments above and submit its final report to the BOC by 12/31/22 with timely Board action to follow.
- 10) **FACILITATION:** Facilitated by a strong, professional facilitator selected by the County with input from the Workgroup. The facilitator will function as chair and mediator. The facilitator should be given broad authority to manage the process in order to keep the process on task and on time.
- 11) **STAFFING:**

The last CUP process caught the County staff in the "cross-fire." The timelines associated with the current land use system put staff in the untenable position of having to evaluate substantial amounts of detailed information in 150 days. The information is complex, detailed, and requires a unique amount of subject matter expertise and outside resources (money for outside experts) that is not common in jurisdictions of Benton County's size, especially on topics like landfills that do not come along frequently. Additionally, staff's plates are full with the other demands of their jobs.

Adversarial dynamics resulted in the personalization of complaints that were distracting from the important work at hand. People in conflict have a choice; they can "Build Relationships and Fix Problems" or "Build a Case and Fix Blame." I recommend the former, which is more likely to happen with a "cooling off" period. Without one, the interpersonal dynamics will likely get worse by adding an unnecessary and counterproductive layer of complexity. Restated, it is not realistic to expect that perceptions, workloads, and access to outside resources are going to improve between now and the next Republic Services' CUP application. As a result, I recommend the following:

- a. *County staff should manage the needed long-term solid waste planning process, which was put on hold pending this assessment.* They should be supported by outside resources (e.g. contractors) as needed, which is commonly done by jurisdictions the size of Benton County. As a result, the County should reconsider the current CUP application fee to determine whether it is sufficient for the required work.
- b. *The County should contract out the planning and legal review of the anticipated Republic Services' CUP application.* The County's Planning Official should manage this. This includes retaining the subject matter experts necessary to provide the County with the best available information necessary to review the application fairly and completely. This recommendation only applies to the upcoming Republic Services CUP application for the reasons noted above.
- c. *County staff should participate in an ex officio capacity in the Workgroup proposed here.*

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These staffing recommendations are because of the “wicked problem” described above and are not based upon an assessment of staff independence or competency.

CONCLUSION

Thank you for the opportunity to assist you. I will be at the July 19, 2022 Commission Meeting to respond to public comments, answer any questions, and provide insights on unintended consequence, if any, associated with any proposed changes to these recommendations.

RESPECTFULLY SUBMITTED

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APPENDIX A: About the Assessor

The Institute for Conflict Management, Inc. (DBA, ICMRESOLUTIONS) is a NW-based, national provider of dispute resolution, facilitation, mediation, decision-making, team building, and training services. ICM is experienced in the intersection of policy, politics, science, business, and law. ICMresolutions has provided public, public-private, and private resolution services. We bring 30+ years of experience in managing, presenting, and resolving matters in a thorough, clear, and balanced fashion. We help stakeholders work collaboratively to achieve shared goals and overcome challenges.

[ICMresolutions Website](#)

SAM IMPERATI, JD. Executive Director. Seasoned attorney. Assistant Corporate Counsel, Nike. Private practice representing individuals and unions. Judge Pro Tempore. Chair, Oregon Bar's (OSB) Alternative Dispute Resolution (ADR) Section. Taught leadership, negotiation, ethics, & decision-making at Willamette MBA & environmental dispute resolution at Lewis & Clark Law. I am currently teaching Public Policy Facilitation at the University of Oregon Law School CRES program. Experience in everything from "Admiralty to Zoning." Highly effective in resolving complex, high-conflict cases, mediating multi-party disputes, and facilitating cross-sector partnerships. Sam displays a tireless work ethic and gets the job done with uncompromising integrity and impartiality. He believes in straight talk to uncover hidden agendas and speaks truth to power in a way that can be heard and acted upon. Sam trains nationally on dispute resolution topics and is an engaging keynote speaker. 2006 – 2022 Best Lawyers in America. Martindale-Hubbell's highest rating, AV Preeminent. 10/10 AVVO rating. OSB & OMA Lezak Awards for mediation excellence. Standup comedy winner!

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APPENDIX B: Relevant Code Sections

23.010 [Solid Waste Management Plan] Purpose. In order to protect the health, safety and welfare of the people of Benton County and to provide a solid waste management program, it is declared to be the public policy of Benton County to regulate solid waste management to:



- (1) Provide for a coordinated solid waste management program and administration with cities within Benton County and with other counties or cities under existing and future regional programs.
- (2) Provide for cooperation and agreements between Benton County and cities and other counties involving joint or regional franchising of solid waste service.
- (3) Provide standards, regulations and franchising to ensure the safe and sanitary accumulation, storage, collection, transportation and disposal or resource recovery of solid wastes and ensure maintenance of solid waste collection, resource recovery and disposal service.
- (4) Encourage research, studies, surveys and demonstration projects to develop a safe, sanitary, efficient, and economical solid waste management system.
- (5) Provide research, development and promotion of and public education for technologically and economically feasible resource recovery including recycling and reuse, by and through the franchisees or permittees and other persons.
- (6) Eliminate duplication of service or routes to conserve energy and material resources, reduce air pollution, noise pollution, truck traffic, and increase efficiency, thereby minimizing consumer cost.
- (7) Encourage the use of the capabilities and expertise of private industry and encourage volunteer efforts in accomplishing the purposes of BCC Chapter 23. Last Modified: 3/16/21, Ord. No. 2021-0300 23-3.
- (8) Provide equitable classes of collection rates to classes or users of solid waste services that are just, fair, reasonable, and adequate to provide necessary services to the public, justify investment in solid waste management systems and provide for equipment and systems modernization to meet environmental service requirements and technology.
- (9) Minimize the cost and burden of regulation, administration and enforcement.
- (10) Provide for public input in solid waste management.
- (11) Carry out the local government responsibility and authority for solid waste management under ORS 459, and carry out the mandate for waste reduction under Chapter 773, Oregon Laws, 1979. [Ord. 1, adopted March 31, 1971; Ord. 23, adopted December 17, 1980; Ord. 85-0023; Ord. 86-035; Ord. 2000-0165].

[Code Section 23.010 Purpose](#)

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The next CUP process would benefit from more specificity to the following Code sections.

- a) **Section 53.205 Purpose.** Conditional uses are land uses which may have an adverse effect on surrounding permitted uses in a zone. [Ord 90-0069]
- b) **Section 53.210 Permit Required.** A person shall obtain a conditional use permit from the County in order to establish a conditional use. The decision to issue a conditional use permit is discretionary. [Ord 90-0069]
- c) **Section 53.215 Criteria.** The decision to approve a conditional use permit shall be based on findings that:
 - (1) The proposed use does not seriously interfere with uses on adjacent property, with the character of the area, or with the purpose of the zone;
 - (2) The proposed use does not impose an undue burden on any public improvements, facilities, utilities, or services available to the area; and
 - (3) The proposed use complies with any additional criteria which may be required for the specific use by this code. [Ord 90-0069]

Section 53.215 Criteria

- d) **Section 77.305 Conditional Uses Approved by the Planning Commission.**

Any proposal to expand the area approved for a landfill within the Landfill Site Zone is allowed by conditional use permit approved by the Planning Commission. The Benton County Environmental Health Division and the Solid Waste Advisory Council shall review and make recommendations through the Planning Official to the Planning Commission regarding the Site Development Plan Map and narrative. The Oregon Department of Environmental Quality shall be given an opportunity to review and comment on any proposal which may affect this site. [Ord 26I, Ord 90-0069]

- e) **Section 77.310 Conditional Use Review.**

- (1) The applicant for a conditional use permit shall provide a narrative which describes:
 - (a) Adjacent land use and impacts upon adjacent uses;
 - (b) Future use of the site as reclaimed, and impacts of that reclamation on adjacent uses;
 - (c) Provisions for screening of the site from public roads and adjacent property;
 - (d) Egress and ingress; and
 - (e) Other information as required by the Planning Official.
- (2) A site plan map shall accompany a conditional use permit application. The map shall contain at least a scale, north arrow, assessor map numbers, location of existing landfill, access, proposed alteration, leachate treatment or monitoring areas surface water systems, and existing and proposed screening (location and types of materials). A statement shall be placed on the map that the site plan map and narrative together are considered as the Site

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Development Plan. A signature block shall be included for the date the approval is given and the signature of the Planning Official indicating approval.

- (3) A conditional use permit application shall contain a reclamation plan describing present efforts and future reclamation plans related to the site.
- (4) The following environmental and operational considerations shall be reviewed prior to changes in the documents referenced above:
 - (a) Geology;
 - (b) Groundwater and surface water;
 - (c) Soil depth and classification, and erosion control factors;
 - (d) Slope; and
 - (e) Cover material availability, transportation, and use. [Ord 26I, Ord 90-0069]
- f) *Section 77.405 Review of DEQ Permits.* Copies of materials submitted to the Oregon Department of Environmental Quality as a part of any permit process shall be submitted to the Planning Official. If at any time the Planning Official determines that permit application materials or conditions of DEQ permit are judged to merit public review, a Public Hearing before the Planning Commission shall be scheduled. [Ord 26I, Ord 90-0069]

[Section 77.405 Review DEQ](#)

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APPENDIX C: Relevant Bylaws Sections

a) Disposal Site Advisory Committee (DSAC) Article 2 Function

The Committee shall assist the Benton County Board of Commissioners in the planning and implementation of disposal site management, including (but not limited to) the following:

- (1) Review with the permittee of the regional disposal site including, but not limited to, siting, operation, closure, and long-term monitoring of the regional disposal site; and
- (2) Provide a forum for community member comments, questions and concerns about the regional disposal site and promote a dialogue between the community and the owner or operator of the regional disposal site; and
- (3) Prepare an annual written report summarizing the local community member's concerns and the manner in which the owner or operator is addressing those concerns. The report shall be considered by the Department of Environmental Quality in issuing and renewing a solid waste permit.

[DSAC Function](#)

b) Solid Waste Advisory Council (SWAC) Article 1 Purpose

The purpose of the Solid Waste Advisory Council (SWAC) is to assist the Board of Commissioners (Board) in Planning and implementation of solid waste management, pursuant to BCC Chapter 23, the Benton County Solid Waste Management Ordinance.“

[SWAC Purpose](#)

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APPENDIX D: Consensus Polling: A Process for Consensus Recommendation-Making

The Facilitator will assist the Workgroup and its members in identifying objectives, addressing the diversity of perspectives, and developing substantive, practical recommendations. The Workgroup will strive for and use a “consensus” recommendation-making approach to determine their level of agreement on proposals. This allows members to distinguish underlying values, interests, and concerns with a goal of developing widely accepted solutions.



Consensus does not mean 100% agreement on each part of every issue, but rather support for a decision, “*taken as a whole.*” This means that a member may poll to support a consensus proposal even though they would prefer to have it modified in some manner to give it their full support. Consensus is a process of “*give and take,*” of finding common ground and developing creative solutions in a way that everyone can support. Consensus is reached if all members support an idea or can say, “*I can live with that.*”

When developing recommendations, the Workgroup will address each issue individually, and in various combinations. It will decide on whether it wants to make package or individual recommendations at the end of the process.

“1-2-3” Consensus Polling: The Facilitator will assist the Workgroup in articulating points of agreement, as well as articulating concerns that require further exploration. It will use a “Consensus Polling” procedure for assessing the group’s opinion and adjusting proposals. In “Consensus Polling,” the Facilitator will articulate the proposal. Each voting member will then offer “one,” “two,” or “three,” reflecting the following:

- “One” indicates full support for the proposal as stated.
- “Two” indicates that the participant agrees with the proposal as stated but would prefer to have it modified in some manner to give it full support. Nevertheless, the member will support the consensus even if his/her suggested modifications are not supported by the rest of the group because the proposal is worthy of general support, as written.
- “Three” indicates refusal to support the proposal as stated.

The Facilitator will repeat the consensus voting process as reasonably practical and as time allows to assist the group in achieving consensus regarding a particular recommendation, so that all members are voting “one” or “two.” Either way, the result will be noted in the Workgroup Report.

No Consensus – Majority and Minority Recommendations: If a consensus on an issue is not likely, as determined by the Facilitator, the poll results for the options considered will be presented to the BOC.

Summary of Workgroup Recommendations: The meeting summaries will serve as the record of the Workgroup recommendations as supplemented by the addition of member statements who elect to submit additional information by the deadline to be established at the last meeting. The facilitator will package all this information in its summary report to the BOC.