



## Prineville City Council Meeting April 8, 2008

### Issue Summary

#### *Topic: Solid Waste Franchise Bond Rate*

**Department: Administration**

**Staff: Robb Corbett**

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#### **Overview**

City staff was made aware of the fact that the recently adopted Ordinance 1142, *An Ordinance Granting an Exclusive Solid Waste Franchise to Holliday Enterprises* omitted the bond amount required for the “full and faithful performance” of the agreement. (See enclosed letter from Prineville Disposal).

In reading the language of Section 8(1)(g), it appears that the intent of the council may have been to not state a specific amount.

Previously the city has required no bond in recent history.

Staff is asking the council to clarify their desire in this matter.

#### **City Options**

1. Re-word the ordinance to give staff the authority to determine bonding levels.
2. City Council determine appropriate bonding levels.
3. Require no bond.

#### **Solutions**

- City staff have surveyed the surrounding communities and found the following:

Bend	\$ 5,000 Bond
Redmond	\$20,000 Bond
Madras	\$ 5,000 Bond
Crook County	\$75,000 Bond.

A performance bond is intended to be used by the city if the franchisee fails to perform. With the bond the city can access the amount available to pay for another business to perform these services. It appears unclear how such a service could be provided by another firm for \$5,000 or even \$20,000. One would think that it might cost more along the lines of \$75,000.

- This issue was recently taken up by Crook County as follows:

**Hear petition of Prineville Disposal, Inc (PDI) related to bonding requirements/Emily and Steve Holliday**

Emily Holliday, PDI, presented information regarding the franchise ordinance 161 section 8, 6J regarding the performance bond in the amount of \$100,000 as set in 2005. Ms. Holliday has been in contact with the company's insurance carrier and has been told by her insurance company, KBI, which does business in three states that this is an unusual amount for a refuse hauler. The general amount is \$25,000, and Ms. Holliday is requesting the bonding for PDI be reduced to \$25,000.

The Court and Emily and Steve Holliday discussed the purpose of the original \$100,000 bond amount written into the franchise agreement. If PDI or a future owner of the franchise were to fail to function, this amount would be used to keep services operational in and by the county.

Commissioner McCabe suggested reducing the amount to \$75,000 with possible further reductions and raising the amount to the original \$100,000 if there were a discomfort level with the operation. Judge Cooper added that with any and all complaints, the company has taken care of the problem immediately.

**Motion**

Commissioner McCabe moved to hold an annual review of the bonding. For 2008, reduce the amount to \$75,000, next year review and lower more in \$25,000 increments if warranted and

each year follow the step until reaching an agreeable amount. Commissioner Lundquist seconded the motion. The vote was 3-0, and the motion passed.

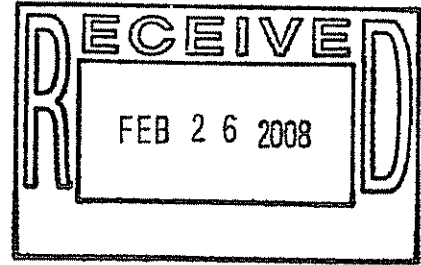
Steve Holliday advised the Court that the proposed \$3.60 and \$4.60 rate for the comingled recycling to begin July 1, 2008 will actually be \$3.57 and \$4.57. The decrease is due to a lower cost for roll-carts with a five-to ten-year warranty than originally planned.

(Minutes of February 20, 2008)

- Prineville Disposal has provided the city with a letter from their insurance company, KBI, as described in the county minutes above. This letter has been included in your packet.



1751 North Main Street  
Prineville, OR 97754



February 22, 2008

Robb Corbett  
City of Prineville  
387 NE Third St  
Prineville, OR 97754

Dear Robb,

Our recent review of the franchise agreement between Holliday Enterprises, LLC and the City of Prineville (Ordinance No. 1142) has brought a need for a modification to our attention. Under the ordinance, we are required to obtain a performance bond. See Section 8, sub-section 1 (g). Gary and Sally Goodman, previous franchisee, did not have a bond in place, so this is new territory for us.

We are doing our due diligence in obtaining a bond for both the city and the county franchises. We realize a bond is important to each franchisor. The ordinance states "Provide a performance bond in an amount reasonably acceptable to with a surety licensed to do business in the State of Oregon..." It appears there is something missing between "to" and "with". We have been given a recommendation from our insurance agent on a standard bond amount. See enclosed letter from Angie Thomas from KBI Insurance.

We look forward to further discussion about this matter in our annual review. Please feel free to contact me so we can schedule our review.

Sincerely,

Emily Holliday, Owner

phone: 541-447-5208

fax: 541-447-2587

web: [www.prinevilledisposal.com](http://www.prinevilledisposal.com)



(503) 692-1520  
FAX: (503) 692-1299  
1-800-442-1520

December 31, 2007

To Whom It May Concern:

KBI Insurance handles a large book of refuse haulers in several of the Western states. We have over 25 years experience in this industry.

It is relatively common for municipalities to require a bond from our clients. The usual amount of this bond is \$25,000.00. The annual premium for such a bond runs about \$250.00. It is my understanding that our insured has been requested to provide a bond with a penalty amount of \$100,000.00. This seems unusual in my experience. The premium for such a bond would be at least \$1,000.00.

While we can meet this need for our insured, it seems that it places undue financial requirements upon them. I have spoken with our Surety carriers about this request. We would need to see a copy of the contract with the insured outlining terms and financial requirements before proceeding with any bond.

If you have any questions, please do not hesitate to contact me directly.

Thank you,

A handwritten signature in cursive script, appearing to read 'Angie Thomas'.

Angie Thomas  
KBI Insurance, Inc.