

ARKANSAS: FAYETTEVILLE OFFICIALS ASK FOR AN INCINERATOR PROBE. (See *Waste Not* #54).

"Fayetteville city officials have asked Prosecuting Attorney Andrew Ziser to investigate possible fraud in a key agreement of the Northwest Arkansas Resource Recovery Authority bond agreements. Officials allege that language that was authorized by the Fayetteville Board of Directors in what is known as the 'waste supply agreement' is significantly different than what became the official record. Without the changes, Ziser said, city officials told him the \$22.4 million in incinerator bonds would have never been issued. Ziser said he is investigating the possibility that a document authorized by the city board was substituted with another document that contained a key '100% guarantee' by the city to repay the bonds in any event...Representatives of **Nixon, Hargrave, Devans and Doyle**, the Washington law firm hired to advise the city on defeating the incinerator bonds, reported that the guarantees made by the waste supply agreement was the **thread** that held Fayetteville liable for repayment of the bonds...While Ziser said the city officials passed him 'the hot potato' on advice from the **Nixon** law firm, no mention of the discrepancy was mentioned in the law firm's May 2 public report on the legal issues surrounding the bonds. City Manager Jim Pennington explained that it 'was discovered as we were reviewing the report.' There are two versions of the waste supply agreement in the bond indenture, Pennington explained, one dated Dec. 5, 1986, and one dated Dec. 22, 1986. Both bind the city, he said, but there are differences. **Nixon** attorneys reported that **Financial Guaranty Insurance Corp.** had sought changes in the waste supply agreement before agreeing to insure the bonds against default. The attorney said the city's guarantee was firmed up in the waste supply agreement as a result of **FGIC's** request. Now it appears that the changes may have not been authorized by the city board." *Springdale News*, 5-10-89. Scott Linebaugh, Fayetteville assistant city manager "said the resolutions in waste supply agreement approved by the city board Dec. 5, 1986, and certified by the city clerk are not the same as the documents included as the official city record of the transaction (dated Dec. 22, 1986). There is a question, Linebaugh said, of whether documents were substituted and, if they were, of whether that constitutes a criminal act. Linebaugh said the Dec. 5, 1986, resolution...was not signed by then-mayor Paul Noland, but by Marilyn Johnson, who was then a city director. He had no explanation for how that happened...Jim McCord, who resigned as Fayetteville city attorney last week and had worked with both the city and the Authority on the incinerator project, said today the bond insurer, **Financial Guaranty Insurance Company**, insisted on certain changes in the bond documents when the remarketing was closed Dec. 30, 1986, in N.Y. City..." *Northwest Arkansas Times*, May 11, 1989. *Waste Not* has received a copy of the **Nixon, Hargrave, Devans and Doyle**, "Report to the City of Fayetteville regarding the Northwest Arkansas Resource Recovery Project." It is a 38 page report that outlines the formation of the Authority, obligations under federal laws, obligations under state law tort theories, etc. The report is available from *Waste Not* for \$4.50.

PLASTICS: SUFFOLK COUNTY, NY, BAN ON PLASTICS FOOD PACKAGING UPHeld BY NY STATE SUPREME COURT JUSTICE.

"A State Supreme Court justice yesterday upheld the constitutionality of Suffolk County's landmark ban on plastics food packaging but ordered the county delay enforcement until extensive environmental studies are done. The decision could, in effect, give opponents what they have been seeking for months—a temporary delay in the July 1 implementation of the law. But County Attorney E. Thomas Boyle said the ruling will also 'give a green light' to communities around the country that have been watching the challenge to the Suffolk law as a test case for similar local statutes. In his 30-page decision, Justice Jack J. Cannavo rejected claims by plastic industry officials that the law is unconstitutional, stating that Suffolk 'has a legitimate reason for invoking its police power,' and that the ban 'will

not have a major adverse effect' on the industry. 'This local law banning certain plastic food packaging and utensils was not an ill-conceived law passed by environmental Cassandras,' said Cannavo, 'but rather a sincere, laudable attempt by county lawmakers to address the grave and urgent problem of solid-waste disposal facing the residents of Suffolk County.' Cannavo however, did rule the county violated the State Environmental Quality Review Act (SEQRA) by failing to provide an environmental impact statement. He also found that the county improperly delegated the decision on whether to do an extensive environmental study to the county's Council on Environmental Quality, rather than the county legislature...The landmark law bans the use of polystyrene and polyvinyl chloride wrappings for food sold in retail establishments as well as plastic grocery bags. Among the many items that would be prohibited are foam coffee cups and clamshell hamburger containers used by fast-food chains. Both sides claimed victory. Jeffrey Stark, attorney for the plastics industry, said, 'We've been sustained on the basic point that we made that the legislature never considered the adverse environmental impact when it ramrodded this law through.' He said it would take several days before a decision is made on whether to appeal. County officials also praised Cannavo for upholding the county on the major constitutional questions. They said they may appeal the part of the ruling ordering further studies. 'The significant point of the decision,' said Boyle, 'is that there is nothing unconstitutional in the legislation...' Legis. Steven Englebright, the sponsor of the law, referring to the environmental studies, 'It's not a question of whether we will have the law, but simply when.' Englebright said no further studies are needed because the proposal was given intense environmental review in eight months of hearings. 'This stands SEQRA on its ear,' said Englebright. 'Studies are only needed when there will be a negative environmental impact...' Newsday, NY, May 25, 1989.

PLASTICS: ST. PAUL, MINNESOTA, APPROVES PLASTIC PACKAGING BAN. On April 27, 1989, by a vote of 6-1, the St. Paul City Council voted to ban non-degradable, non-returnable, non-recyclable packaging. The local ordinance, identical to the one approved last month in the twin city of Minneapolis, would become effective July 1990. Among items that could be banned are plastic products **shipped into the state**, such as ketchup bottles and peanut butter jars. The Twin Cities have approved the most far-reaching plastic bans in the country. For Minneapolis plastic ban approval see **Waste Not #49**.

"A SONG FOR THE EARTH": A PUPPET SHOW FOR CHILDREN OF ALL AGES, addresses the broader issue of earth stewardship, including garbage. "Through the use of puppetry and drama" a professional actress, Joan Lisi, encourages children to imagine the kind of environment they would like to live in, and to discuss what they can do today to make that world possible. **Waste Not** has received enthusiastic reviews of this production. The puppet show is presented by the Land Stewardship Project for a minimal fee. Contact the Project at 14758 Ostlund Trail North, Marine, MN 55047. Tel: 612-433-2770.

Waste Not # 58
*A publication of
Work On Waste USA,
a non-profit corporation dedicated to the
promotion of sound resource
management policy.*

*Annual Subscription Rate: \$25.
Students & Seniors: \$15
Consultants &
for-profit organizations: \$100.*

*Letters, articles and calls from the public
welcome.*

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Printed on recycled paper, naturally