

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: June 3, 1999
DAY: Thursday
TIME: 2:00 PM
PLACE: Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS
2. CITIZEN COMMUNICATIONS
3. ENVIRONMENTAL MONITORING STUDY AT SMITH AND BYBEE LAKES WILDLIFE AREA. George Middle School
4. EXECUTIVE OFFICER COMMUNICATIONS
5. AUDITOR COMMUNICATIONS Dow
a) HOUSEHOLD HAZARDOUS WASTE PROGRAM REPORT
6. MPAC COMMUNICATIONS
7. METRO LEGISLATIVE UPDATE PacWest
8. CONSENT AGENDA
- 8.1 Consideration of Minutes for the May ²⁷/~~13~~, 1999 Metro Council Regular Meeting.
9. ORDINANCES - SECOND READING
- 9.1 Ordinance No. 99-805, For the Purpose of Amending Metro Code Chapter 5.02 to Extend the Sunset Date for the Regional System Fee Credit Program to June 30, 2000, and Declaring an Emergency. Park
10. RESOLUTIONS
- 10.1 Resolution No. 99-2778, For the Purpose of Establishing a Bi-State Committee of the Joint Policy Advisory Committee on Transportation (JPACT) and the Southwest Washington Regional Transportation Council (RTC). Washington

11. CONTRACT REVIEW BOARD

- 11.1 **Resolution No. 99-2777**, For the Purpose of Amending the Contract Between Washington Metro and Northwest Ecological Research Institute (Contract No. 920892) for Western Painted Turtle Monitoring at Smith and Bybee Lakes Wildlife Area.
- 11.2 **Resolution No. 99-2788**, For the Purpose of Authorizing an Exemption to Atherton Competitive Bidding Procedures Pursuant to Metro Code Chapter 2.04.054(c), and Authorizing the Executive Officer to Execute a Multi-Year Contract with the Oregon Historical Society.

12. COUNCILOR COMMUNICATION

ADJOURN

Cable Schedule for June 3, 1999 Metro Council Meeting

	Sunday (6/6)	Monday (6/7)	Tuesday (6/8)	Wednesday (6/9)	Thursday (6/3)	Friday (6/4)	Saturday (6/5)
CHANNEL 11 (Community Access Network) (most of Portland area)						2:00 P.M. *	
CHANNEL 21 (TVCA) (Washington Co., Lake Oswego, Wilsonville)	7:00 P.M. *	1:00 A.M. *		7:00 P.M. *			
CHANNEL 30 (TVCA) (NE Washington Co. - people in Wash. Co. who get Portland TCI)	7:00 P.M. *			7:00 P.M. *			
CHANNEL 30 (CityNet 30) (most of Portland area)		2:00 P.M. (5/27 meeting)					
CHANNEL 30 (West Linn Cable Access) (West Linn, Rivergrove, Lake Oswego)		12:00 P.M. (5/27 meeting)		10:00 P.M.	11:00 P.M. (5/27 meeting)	10:30 P.M. (5/27 meeting)	7:00 A.M. (5/27 meeting)
CHANNEL 19 (Milwaukie TCI) (Milwaukie)	4:00 P.M. (5/27 meeting)					10:00 P.M. (5/27 meeting)	9:00 A.M. (5/27 meeting)

* These meetings may be preceded by a 30-minute public affairs program, *The Regional Report*, produced by Metro.

PLEASE NOTE THAT ALL SHOWING TIMES ARE TENTATIVE BASED ON THE INDIVIDUAL CABLE COMPANIES' SCHEDULES.

PUBLIC HEARINGS: Public Hearings are held on all Ordinances second read and on Resolutions upon request of the public. Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, 797-1542. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

HOUSEHOLD HAZARDOUS WASTE PROGRAM REPORT

Metro Council Meeting
Thursday, June 3, 1999
Council Chamber

Metro
Regional Environmental
Management

Household Hazardous
Waste Program

May 1999

A Report by the Office of the Auditor



METRO

1999-10405-AUD

Alexis Dow, CPA
Metro Auditor



METRO
OFFICE OF THE AUDITOR

May 24, 1999

To the Metro Council and Executive Officer:

The accompanying report details our review of Metro's household hazardous waste program. In fiscal 1998 Metro processed about 2.3 million pounds of hazardous waste at a cost of approximately \$2.8 million; annual revenue was \$108,000.

Paint is a major component of the household hazardous waste that Metro collects. Currently, Metro recycles usable latex paint, then makes it available to governments and non-profit organizations at no cost. In early fiscal 2000 Metro expects to complete construction of a new latex paint recycling facility. Using this facility, Metro plans to recycle and sell more than 86,000 gallons of paint a year.

We recommend that Metro price this paint at market as a means of recovering more household hazardous waste program costs. At a minimum, Metro should increase their currently planned prices by about \$1 more per gallon to absorb the cost of depreciating the newly constructed latex paint facility. Also, Metro should aggressively market its recycled latex paint products to other governments.

We reviewed a draft of this report with the Executive Officer. The last section of this report presents his written response.

We sincerely appreciate the cooperation and assistance provided by Metro staff as we conducted this review, particularly the staff from the Regional Environmental Management department.

Very truly yours,

Alexis Dow, CPA
Metro Auditor

Auditor: Leo Kenyon, CPA

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Executive Summary

Metro's household hazardous waste program processed about 2.3 million pounds of waste in fiscal 1998 and cost about \$2.8 million; annual revenue was \$108,000. Household hazardous waste is collected, processed and disposed of at Metro's transfer stations and collected at special collection events.

In 1997, consultants reported that Metro's hazardous waste program cost more than most of 24 similar programs reviewed, but is much more comprehensive than any of them – it is open more hours, accepts more types of waste and serves a more diverse range of customers. The consultants also found that its performance and efficiency levels generally met or exceeded other programs and any cost reductions would curtail services or reduce Metro's ability to meet program objectives. Lastly, they suggested Metro consider increasing its efforts to recycle latex paint as a way to reduce overall hazardous waste disposal costs.

Paint is a major part of the household hazardous waste that Metro receives. Metro recycles usable portions of latex paint, then makes it available to governments and non-profit organizations at no cost. Annual volumes of recycled paint have grown from 27,000 gallons in 1993 to over 84,000 gallons in 1998. Metro's recycling rate grew from about 38 to 73 percent during that period.

Metro expects to complete construction of a new latex paint recycling facility in early fiscal 2000. Using this facility, Metro plans to recycle and sell more than 86,000 gallons of paint a year. It expects to nearly recover the direct costs of operating this facility by selling the paint to the general public for \$3 a gallon and to non-profit organizations and governments for \$2 a gallon. A current projection anticipates sales will approximate \$191,000 and direct costs \$194,000.

We suggest that Metro price the paint at market as a means of recovering more household hazardous waste program costs. At a minimum, Metro should charge all customers about \$1 more per gallon to absorb the cost of depreciating the latex paint facility. A \$1 per gallon increase would generate about \$80,000.

Also, Metro should aggressively market its recycled latex paint products to other governments. Officials of several local governments expressed interest in buying good quality recycled paint from Metro for \$3 to \$4 per gallon.

Introduction and Background

History of Household Hazardous Waste Program

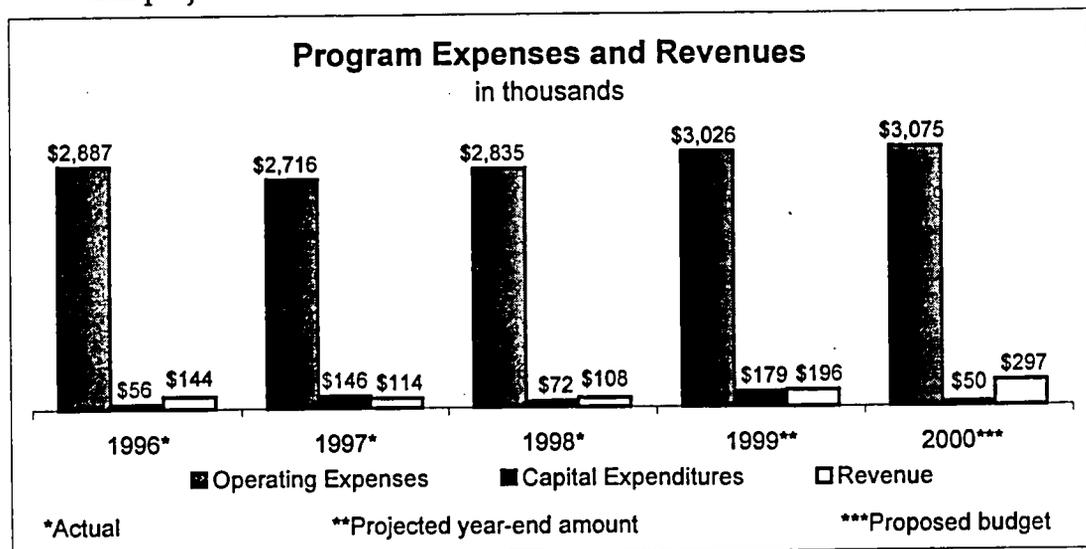
Metro has been involved with management of household hazardous waste since 1986 when it conducted a pilot household hazardous waste collection event. Between 1988 and 1991 Metro sponsored a series of collection events, generally held twice a year and usually at four locations in the Metro area. Each of these contractor-conducted events attracted between 1,000 and 3,600 participants.

In response to a 1989 state mandate that Metro establish permanent collection facilities for household hazardous waste, Metro built two facilities - one at each of Metro's two solid waste transfer stations. They are operated using Metro employees and employees of a thrift organization. Contractors are used to transport and discard wastes that cannot be recycled at the facilities. The Metro South household hazardous waste facility in Oregon City commenced operation on February 6, 1992 and the Metro Central facility on November 4, 1993.

The estimated cost to replace these facilities in 1997 was \$1,428,500 for Metro South and \$1,284,500 for Metro Central.

In addition, Metro expects to complete a new latex paint facility at Metro South in June 1999, estimated to cost about \$761,300. It is expected to process well over 100,000 gallons of latex paint annually.

According to Metro's Regional Environmental Management Department staff, household hazardous waste program costs and revenues for fiscal 1996 through 1999 and projections for fiscal 1999 and 2000 are:



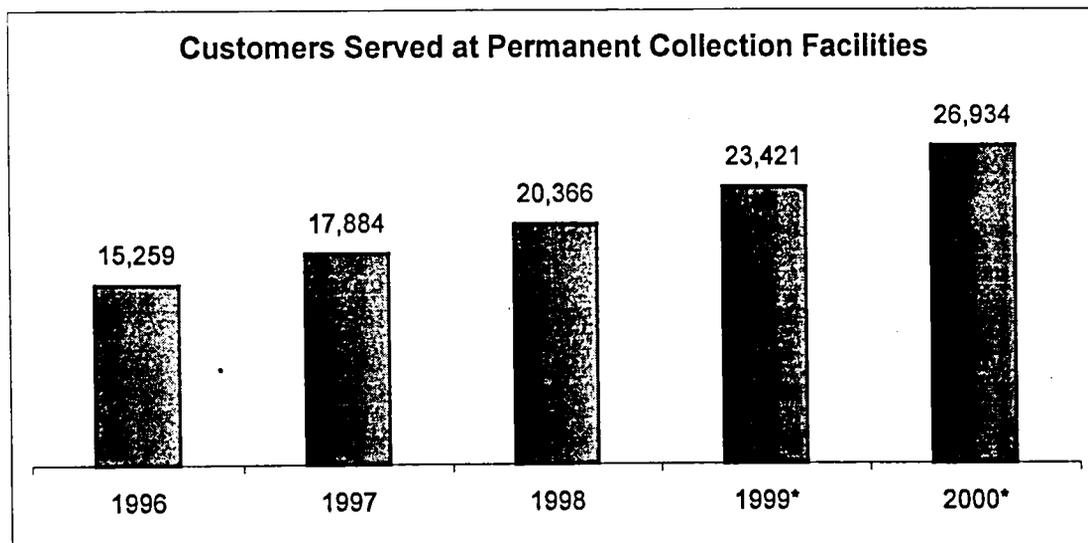
Household Hazardous Waste Program

In fiscal 1998, Metro's household hazardous waste program included:

- two permanent collections facilities operating six days a week year-round.
- six full-scale and 15 neighborhood household hazardous waste collection events around the region.
- a latex paint collection and processing program.
- a collection program for hazardous waste from small businesses - CEGs (conditionally exempt generators).
- a load-checking program to identify and remove hazardous and other unacceptable waste from solid waste received at Metro's two transfer stations.
- an emergency response team equipped to respond to chemical releases at the transfer stations as well as test and dispose of illegally dumped hazardous waste.

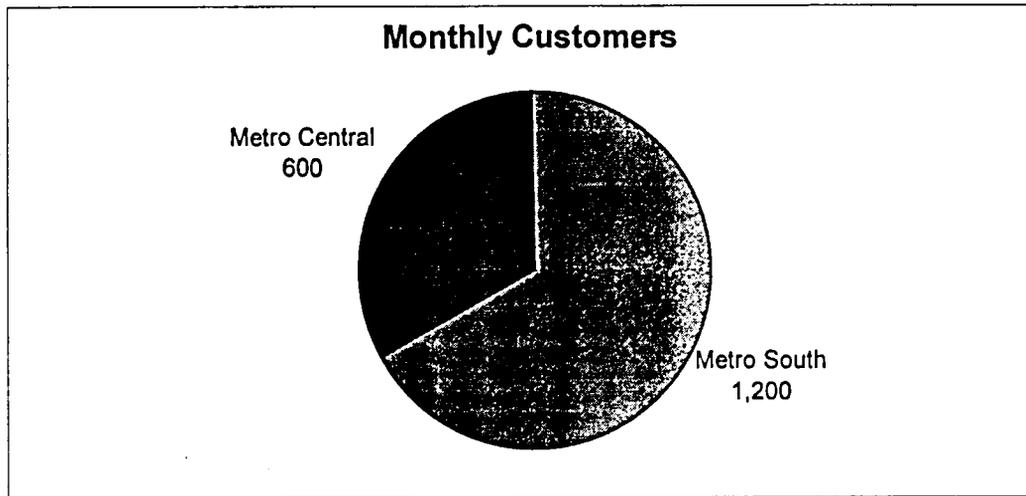
Permanent Collection Facilities

The total number of household hazardous waste customers served at the two facilities has increased each year since fiscal 1996 as shown in the following graph:



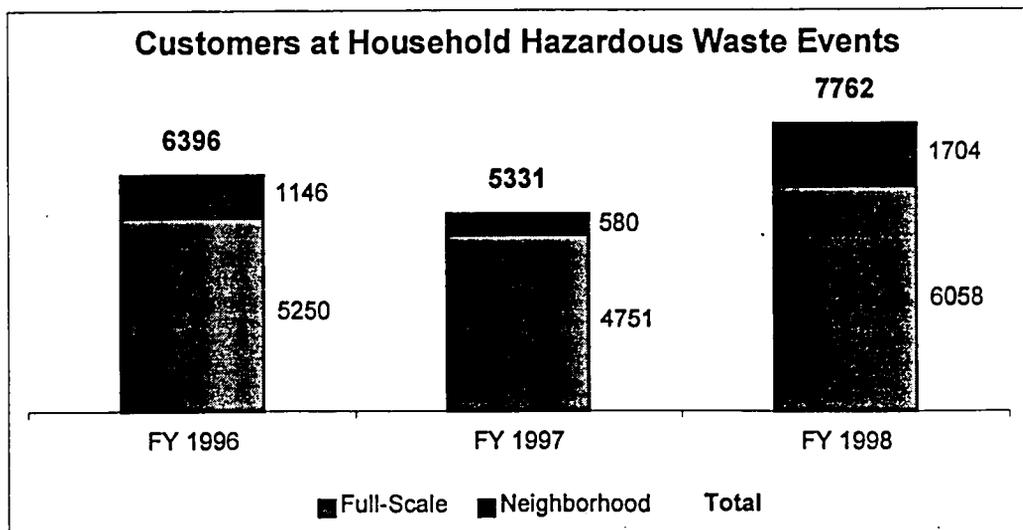
* Projected

The fiscal 1999 household hazardous waste budget anticipates a staff of 20 full-time equivalent employees (FTEs) and more than \$150,000 for temporary employees at collection events. The full-time staff principally work at the two transfer station household hazardous waste facilities, which are staffed from 9 a.m. to 4 p.m., 6 days a week. Metro South accommodates about 1,200 drive-up household hazardous waste customers each month, and Metro Central accommodates about 600.

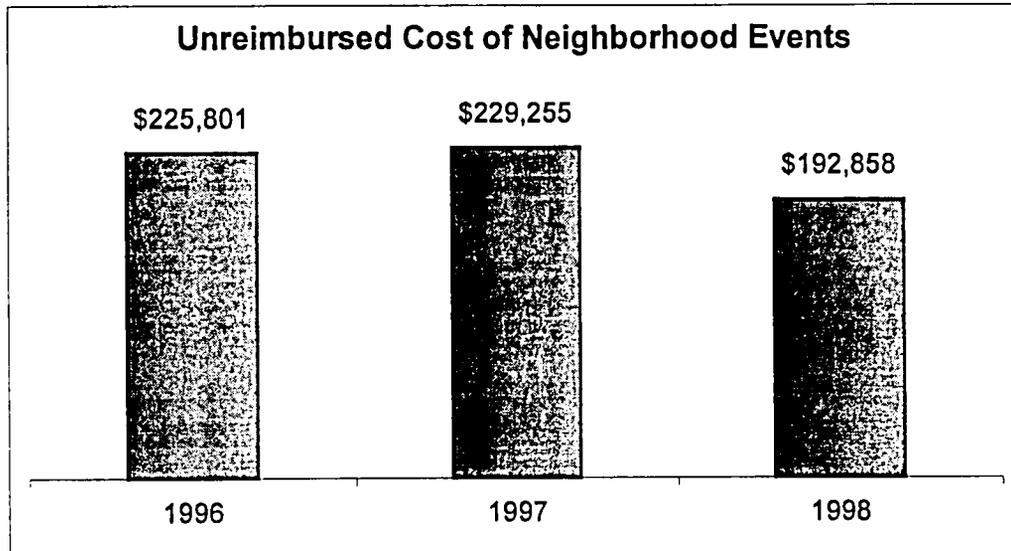


Satellite Collection Events

Metro also served 7,762 customers at mobile household hazardous waste collection events during fiscal 1998 – 46 percent more than the prior fiscal year and 21 percent higher than the previous record-breaking year in fiscal 1996.



In fiscal 1998 Metro staff (supplemented with temporary employees) conducted six major satellite events serving up to 1,660 residents at a single location in one day. In addition, Metro also conducted 15 neighborhood events, each serving 17 to 200 customers. Metro officials reported that during fiscal years 1996, 1997, and 1998 these satellite events cost \$225,801, \$229,255, and \$192,858 respectively in direct personnel, material and service costs. Customers reimburse none of these costs.



Latex Paint Recycling Program

All latex paint collected in Metro's household hazardous waste program — about 1,400 gallons a week — is brought to the Metro South transfer station for processing. This includes paint from both transfer station sites' household customers, all of the satellite collection events, CEGs and the load check program. The latex paint program has been operating since February 1992. By the end of 1998 approximately 334,000 gallons had been collected and over 183,000 gallons were processed for re-use. Currently, processed paint is given to non-profit organizations and local governments. A small amount is sold to contractors and homeowners. Metro's direct cost-per-gallon for recycled paint, including labor, material and disposal costs, is about \$3. Metro anticipates that the per-gallon direct processing costs will drop to under \$2 after the dedicated latex paint processing facility is completed.

CEG (Conditional Exempt Generator) Program

Metro's household hazardous waste facilities at its transfer stations accept hazardous waste from small commercial generators who are classified as conditionally exempt under state and federal hazardous waste regulations. Under federal regulations, each CEG business can accumulate up to 2,200 pounds of hazardous material annually. Metro services 250 to 300 of these small businesses, charging these customers \$3 to \$13 per gallon to recover the direct cost of managing their hazardous waste.

Load-Check Program

Household hazardous waste is to be segregated and handled separate from mixed solid waste. Household hazardous waste technicians monitor mixed solid waste received at Metro's transfer stations to identify hazardous and other unacceptable waste received as mixed waste. If the generator is identified, the waste is to be retrieved by the generator. If the generator is unable or unwilling to retrieve the waste or cannot be identified, the waste is brought to the household hazardous waste facilities for safe disposal. About 75 tons of household hazardous waste are removed from the trash coming into Metro's transfer stations each year.

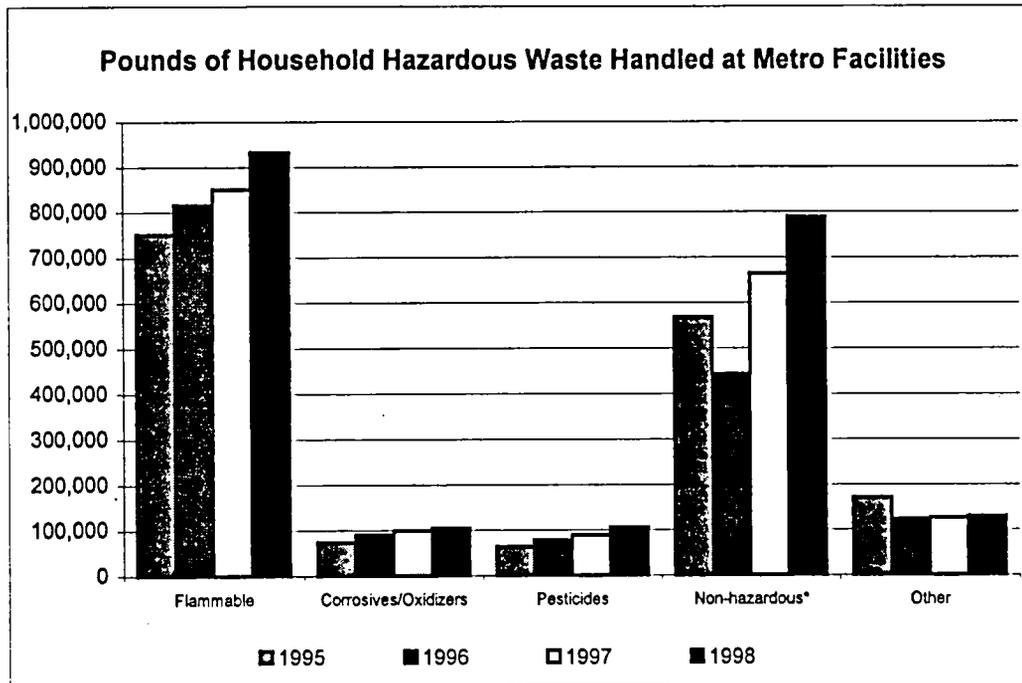
Other Programs

The household hazardous waste program has several other smaller programs including:

- cleanup and processing of abandoned and illegally dumped hazardous waste.
- emergency response to hazardous waste releases at the two transfer stations.
- "Pass it On" – Metro's distribution of between 20,000 and 30,000 pounds of otherwise hazardous materials that are in good condition and still suitable for reuse in original form to qualified parties.
- an education and promotion program to inform the public about household hazardous waste.

Pounds and Type of Household Hazardous Waste Handled

Metro accounts for the estimated weight (pounds) of household hazardous waste handled each calendar year. The following graph and table show the volume shipped from Metro's transfer stations for 1995 through 1998 by waste type and in total. These amounts exclude the volume of waste shipped directly from event sites.



* Mainly latex paint

	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>1998</u>
	(Pounds of hazardous waste)			
Processed	1,627,146	1,552,920	1,829,671	2,060,034
Re-used in original form *	<u>21,760</u>	<u>23,407</u>	<u>25,207</u>	<u>47,351</u>
Total handled	<u>1,648,906</u>	<u>1,576,327</u>	<u>1,854,878</u>	<u>2,107,385</u>

* Otherwise hazardous waste materials that are in good condition, still suitable for use, and donated to qualified parties.

Objectives, Scope and Methodology

Our objectives were to independently:

- evaluate the costs, resources and liability of conducting neighborhood recovery events and operating the transfer stations' household hazardous waste operations.
- study how other governments manage household hazardous waste.
- recommend the best ways for Metro to address the continuing growth of household hazardous waste.

We did not assess the feasibility, costs, benefits and risks of privatizing household hazardous waste management and disposal. Information provided by a consulting firm 2 years ago showed Metro's costs comparable to those of 9 privately owned systems.

To address these audit objectives we:

- read documents related to the establishment and operation of the household hazardous waste program and facilities, the accomplishments of Metro in managing waste to date and Metro's plans for managing them in the future.
- studied Metro's financial and budget documentation related to the revenues and costs of operating this program.
- discussed this program with Metro personnel in the Regional Environmental Management Department, the General Counsel's office and the Administrative Services Department.
- conducted an extensive search of the Internet regarding the household hazardous waste programs of other governments.

This study was performed in accordance with generally accepted government auditing standards. Fieldwork was conducted between September 1998 and March 1999.

Metro's Program Provides More Types of Customers with Better Services

Metro's household hazardous waste program is one of the most comprehensive in the nation, handling nearly 50 categories of household hazardous waste. It recycles some wastes, disposes of others as fuel for energy production, has some incinerated and landfills others. The program is, however, relatively expensive – costing nearly \$3 million annually over the past 3 years.

Costs of Operating Metro's Household Hazardous Waste Program

The direct operating cost of Metro's household hazardous waste program for fiscal years 1996, 1997 and 1998, is shown in the following table. These amounts exclude capital expenditures and any offsetting revenues.

1996	\$2,935,592
1997	\$2,772,069
1998	\$2,834,512

Consultants' Evaluation of Metro's Program Gives High Marks

Metro commissioned a study of its household hazardous waste program to assist in implementing an evaluation and tracking system which would provide management information and feedback to help Metro assure that its programs are designed and operated efficiently and cost-effectively. The consultants studied 1995 data and reported their findings to Metro in March 1997.

The consultants were asked to provide two key types of information:

- gather data and analyze similar programs regionally and across the nation for program designs and services, and identify potential measures for implementing a more comprehensive monitoring program to evaluate the performance of Metro programs.
- gather raw activity and cost data about these programs to calculate measures and ratios for comparison with current Metro performance in its hazardous waste operations.

The consultants reported that they surveyed the programs of 24 established and successful permanent programs serving 12 large communities with populations

greater than 500,000 and 12 serving communities with populations between 100,000 and 500,000. They also collected extensive secondary data on other community programs—100 in California and 37 in Washington State. The consultants reported that their sample targeted all the large, well-established programs in the country that were able to provide relevant program and budget information.

Of the 24 programs, hazardous waste companies operated 9 under contract and local government staffed the remaining 15. The consultants stated that their sample provided an opportunity to compare Metro with some of the most respected household hazardous waste programs in the country.

The consultants stated that Metro's program participation level compared well to the 12 large programs surveyed. Metro's program served 4.3% of the households in its service area annually while the other 12 programs served an average of 3.6%. They further stated that Metro's high participation levels were "...especially impressive in light of the fact that Metro is *the only program* with a user fee for households. All other programs in the sample provide free service to household users." Seattle stopped charging user fees because the city was concerned that the fee was a deterrent and did not come close to covering program costs.

The consultants concluded that:

- The program's performance and efficiency compared favorably with nationwide "leader" programs and other similar programs throughout the country.
- Metro served more types of customers with better services than other programs. For example, Metro:
 - serves CEGs (only one-fourth of the programs surveyed did this).
 - performs broader services—equivalent to the highest one-sixth of other programs—and its staff is more highly trained than the others.
 - collects more types of waste than most other programs.
 - is open more than twice as many hours per week and days per year as other programs.
- The more comprehensive nature of Metro's hazardous waste program results in higher collection costs per pound and per customer than the average for 24 other surveyed programs.
- Metro collects greater quantities of more expensive, non-vehicle wastes—those that tend to be more expensive to collect, manage and treat or discard.

- Metro ranked average for reclamation of hazardous materials, emphasizing reuse and reclamation, and avoiding ultimate disposal of such waste.

The consultants made several recommendations including:

- enhancing Metro's already strong monitoring of hazardous waste by implementing measures of customer satisfaction as determined through periodic surveys.
- focusing on managing, not necessarily reducing, hazardous waste program costs since Metro's higher costs seem closely linked to its high quality, comprehensive service package and mix of waste handled. Over time, Metro may want to try improving its cost efficiency by working to increase reclamation of paint (thereby reducing associated disposal costs).

Metro's Response to Consultants' Study

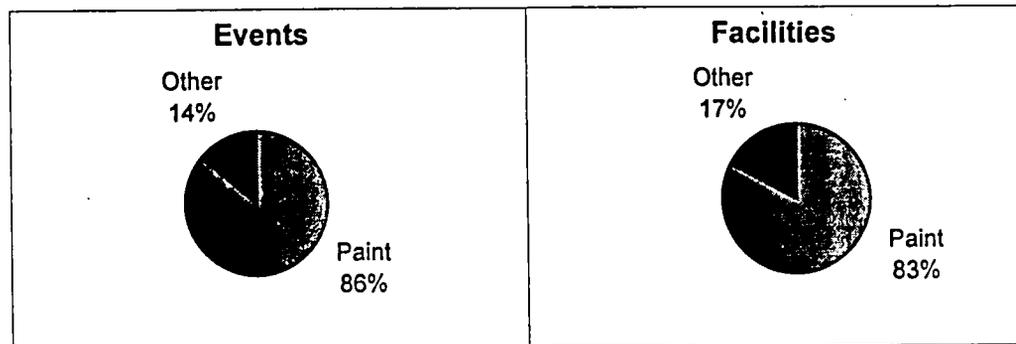
Consistent with the study's recommendations, Metro conducted three customer surveys in the spring and summer of 1998; increased its cost efficiency and significantly increased reclamation of paint.

Stakeholder Survey

Metro's survey of stakeholders asked for their views on existing and alternative approaches to managing household hazardous waste and CEG wastes. Those surveyed provided a number of different responses regarding measures to (1) reduce the demand for hazardous waste management services and (2) provide such services. Metro concluded that there was strong support for education and an interest in participating in additional and alternative services.

Intercept Survey

The intercept survey was conducted at both transfer stations and one event. A total of 534 interviews were done—217 at the Washington Square event, 196 at Metro South and 121 at Metro Central. Most patrons at both the event (86%) and the facilities (83%) were bringing paint for disposal.



The respondents generally expressed high satisfaction with the services provided. Those interviewed at the event said they preferred the events, while those interviewed at facilities said they preferred the facilities. Convenient location is the primary reason respondents preferred events. Eliminating the fee at the facilities was cited as an incentive to use them more.

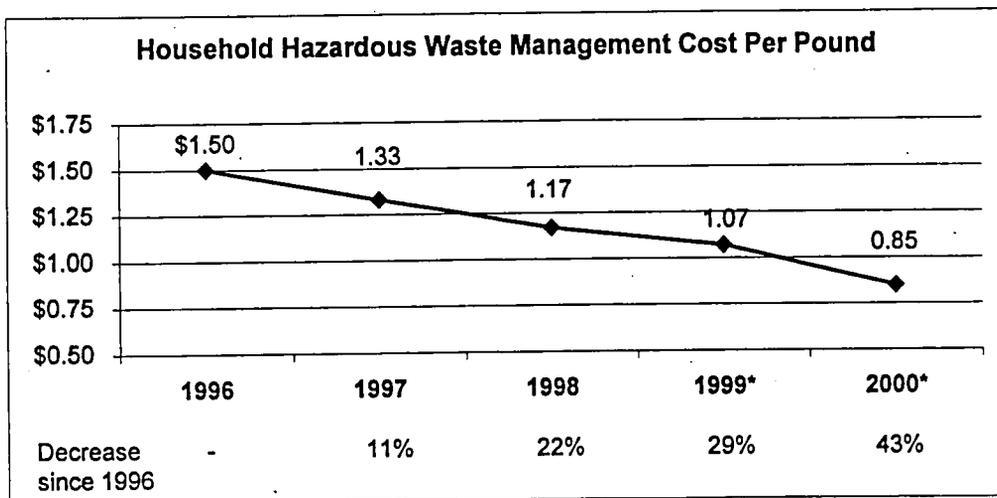
Telephone Survey

A contractor conducted a random telephone survey of 657 residents of single family homes throughout Multnomah, Clackamas and Washington Counties—a sample that generally reflected the proportion of residents as listed in Metro tax records. Principle findings of the survey were:

- about half of those contacted had disposed of hazardous waste at a Metro facility within the past five years.
- the greatest barrier to use of Metro facilities is distance—about one half of the respondents would be much more likely to use Metro facilities if there were a drop site closer to their home.
- small fees (\$5) do not seem to have a significant negative effect on Metro facility use, but an increase to a \$10 fee would negatively impact their use.

Increased Cost Efficiency

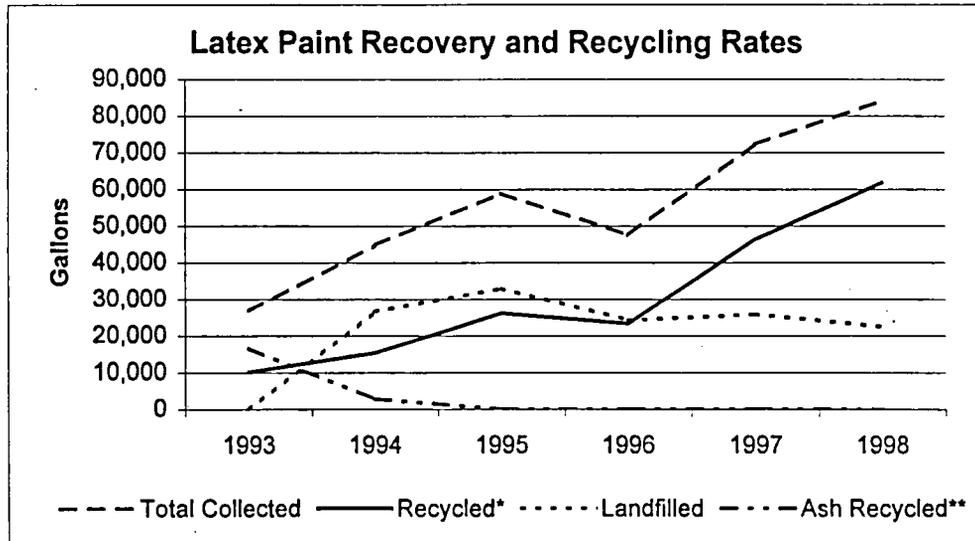
The cost of operating Metro’s household hazardous waste program remained fairly constant during fiscal 1996 through 1998 and is expected to remain at those levels in fiscal 1999 and 2000. The pounds of waste processed, however, have increased substantially. As a result, direct costs per pound decreased by about 22 percent between fiscal years 1996 and 1998. Staff project those costs will continue to decrease an additional 20 percentage points by fiscal 2000.



* Projected

Metro Is Significantly Increasing Reclamation of Latex Paint

Metro has been recovering and recycling latex paint for several years and in increasing volume as demonstrated in the following graph:



* Distributed to the community for use as paint.

** Waste paint sent to an incinerator where the ash is used in a new paint product.

Metro's disposal contract with Oregon Waste System does not permit discarding liquid latex paint in that company's landfill. Instead, liquid latex paint must be recovered, recycled or, if it is not salvageable, must be shipped to another contractor for solidification and landfilling. This costs Metro approximately \$2.90 per gallon. Consultants hired by Metro to study its solid waste program recommended increasing reclamation of latex paint as a way to mitigate the cost of its extensive and highly successful hazardous waste program. The next chapter addresses this recommendation.

Liability for Damages Caused by Program Are Remote

Some additional risk and increased liability at the hazardous waste collection events exists primarily because of the high level of activity due to large numbers of customers, Metro staff and temporary employees. Metro has had no instances of contamination or serious injury at these events. Some minor injuries such as sprains have occurred, but Metro has never paid any damages.

Metro's Risk Management officials told us that the household hazardous waste facilities have had no claims for damages caused by spills, contamination or serious injury. The garbage weighing and dumping side of the transfer station has had some instances where public and station personnel were affected by household hazardous waste accidents resulting from customers dumping hazardous materials as non-hazardous garbage.

Metro's Senior Assistant General Counsels and Risk Management officials told us that temporary employees at the events are Metro employees and, like the full-time household hazardous waste staff, are covered under workmen's compensation. Contract personnel that operate the latex paint facility are covered by workmen's compensation through their organization. All Metro officials consulted said there are always risks, but the controls Metro has in place to manage the household hazardous waste operations are sound, and they believe the risks are minimal.

Metro Could Recover More Costs by Increasing Prices for Recycled Latex Paint

A major cost component of Metro's household hazardous waste program has been collecting, processing and recycling latex paint. Metro has been giving away this recycled paint to non-profit and government agencies. Metro now plans to sell the paint to the former recipients and to private buyers at prices intended to recover most labor and material costs of recycling the paint - approximately \$2 to \$3 per gallon. We believe Metro should try to sell the paint at market. At a minimum, Metro should recover about \$1 more per gallon to fully recover the capital costs of its new paint processing facility.

Paint: Largest Component in Household Hazardous Waste Program

By volume, paint is the largest component of waste brought into household hazardous waste collection programs at Metro and nationally. The two major types of paint are oil-based and water-based. Oil-based paints typically use a petro-chemical product as a solvent, whereas latex uses water as a solvent. Oil-based paints are hazardous materials.

Paint manufactured before 1990 sometimes contained hazardous substances like lead and mercury. Latex paint manufactured after that time, however, is generally not considered a hazardous waste according to the procedures and protocol listed in the U.S. Environmental Protection Agency documentation. Many household hazardous waste programs across the country instruct owners of such paint to simply dry it out and discard it in garbage cans. However, latex paint is considered a hazardous waste in California and must be discarded in a Class I "hazardous" landfill unless it is reused or recycled. Many other state and local jurisdictions also treat it as a hazardous waste.

Because latex paint may adversely affect human health and the environment or create a public nuisance, it should be managed. A responsible way to manage unwanted latex paint is through a community collection program. Once collected, latex paint may be:

- exchanged in "drop and swap" programs that allow customers to receive it for touch-up and building maintenance "as is" and free of charge.
- bulked for use not requiring commercial quality paint or specific color choices such as coverage of graffiti or frequently painted public buildings.
- remanufactured or recycled into consistent paint that meets manufacturer's specifications for color, content and performance.

Remanufactured or Recycled Paint Programs

Latex paint is remanufactured or recycled in a variety of ways throughout the country. Some government jurisdictions collect paint at household hazardous waste events or at waste transfer stations, then provide it to paint companies who reprocess it into useable paint. Other governments instruct paint owners to take their waste paint directly to local paint companies who recycle it. This paint may then be resold to the public or back to the jurisdictions for resale, donation to non-profit organizations or covering graffiti. For example:

- Atlantic County, New Jersey, has collected paint one day a month since 1994. It contracts with a vendor who recycles the latex paint and disposes of the oil-based paint. Atlantic County then takes back the recycled paint, and sells it to the public for \$8 per gallon.
- the State of Ohio advertised a central contract for recycled paint and related contracts in 1998. One vendor offered to sell up to 20,000 gallons per month for \$15-17 per gallon.
- a company in California collected unused latex paint, recycled it and sold it worldwide to U.S. government projects and to the public, charging about \$5-\$6 per gallon.
- another company in Massachusetts collected unused latex paint, recycled it and sold it for about \$10 per gallon.

Governments Encourage Use of Recycled Paint

Federal Government

The November 13, 1997 Federal Register announced that the federal Environment Protection Agency was amending the federal government's Comprehensive Procurement Guideline to designate new items that are or can be made with recovered materials. Reprocessed latex paint was added for use in "...interior and exterior architectural applications." Under this designation, procuring agencies must purchase reprocessed latex paint if it is available and meets the needs of the agencies.

The federal General Services Administration, which sells materials to federal government customers, offers recycled latex paint containing a minimum of 50 percent post-consumer waste. A number of colors are available at prices ranging from \$6 to \$10 per gallon.

State of California

California requires agencies to buy recycled paint. The Public Contract Code (Section 12170 (a)) states that "Fitness and quality being equal, all state agencies

shall purchase the following recycled products, instead of non-recycled products, whenever the recycled products are available at the same cost, or at a lower cost, than the total costs of the non-recycled products... (4) (A) Recycled paint..." Recycled paint, by definition, has a recycled content of at least 50 percent post-consumer paint. If paint of this content is unavailable, the state agency may substitute paint with not less than 10 percent post-consumer content.

California's Department of General Services has awarded contracts to two private vendors for recycled latex paint. This paint is now available to state agencies, local governments and special districts in numerous grades and colors. The contracts, one for northern California and the other for southern California, offer the paint for less than \$7 per gallon.

California has established a goal that at least 50 percent of state purchases by January 1, 2000 will be recycled products.

State of Oregon

The State of Oregon encourages use of recycled materials in Oregon Revised Statutes 279. For example, the statutes stipulate it is the state's policy and intent to procure products made from recycled materials and the recycling of waste materials. The statutes go on to require that a state or public agency give preference to materials and supplies that are manufactured from recycled materials if the recycled product:

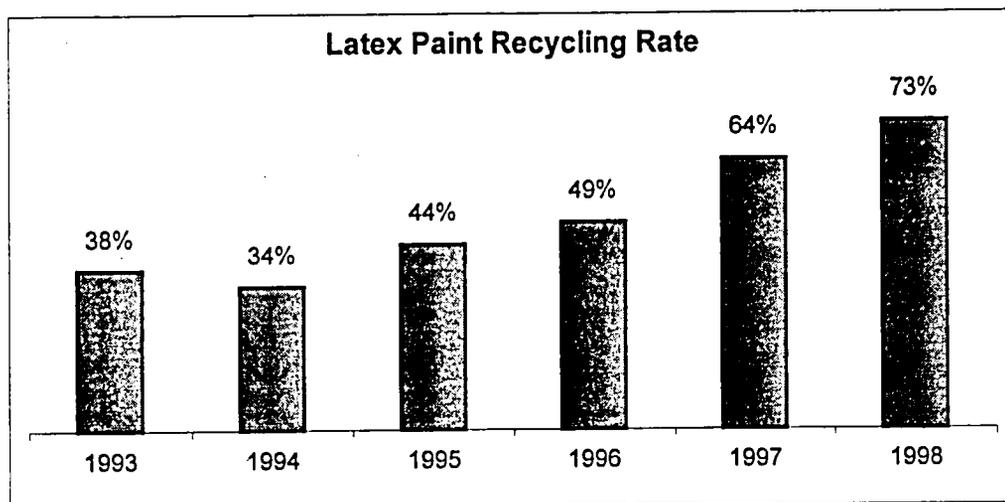
- is available.
- meets applicable standards.
- can be substituted for a comparable non-recycled product.
- costs do not exceed the costs of non-recycled products by more than five percent.

State of Oregon purchase regulations reiterate these statements by specifying that the state's Administrative Division "...will make recycled products and materials available to state agencies whenever they can be obtained."

We asked an official of the Administrative Services Department's Purchasing Division if they acquired recycled latex paint for use by state agencies and were told that the division did not. The department's Facilities Division handles most of these purchases. We then asked an official of that division if they acquired recycled latex paint for use in painting state facilities and were told no. Painters in that division purchase paint on the open market and are not instructed to buy recycled paint.

Metro's Plan for Recycling Latex Paint

Between 1991 and 1993, Metro gave waste paint to a paint company for recycling. The recycled paint was good but did not meet federal standards, and the company dropped out of the program. Metro continued collecting and bulking the paint into nine varieties, based on color and exterior or interior. In 1993, Metro recycled about 38 percent of the latex paint it received. By 1998, that had improved to about 73 percent. Metro's Hazardous Waste Program Supervisor projects recycling will increase to 75 percent in 2000.



Almost all of this recycled paint has been given to non-profit organizations and local governments. However, in the last 6 months of calendar year 1998, Metro sold about \$6,000 of recycled paint to commercial customers at \$1 per gallon.

Metro is embarking on a new program for collecting more latex paint, recycling it and selling it to thrift organizations, local governments and the general public. It expects to finish a new, dedicated latex paint processing building at the Metro South Transfer Station site in June 1999. The estimated total cost of the facility is about \$761,300. This includes \$111,000 for fourteen mixing tanks with accessories, 14 pneumatic mixers, solidification pans to treat unusable paint, and other equipment.

Estimated annual direct costs of processing latex paint in the new building are:

Labor	\$154,824
Materials	26,804
Disposal (unusable paint)	<u>12,436</u>
Total	<u>\$194,064</u>

This estimate assumes that Metro will collect 115,470 gallons and recycle 75 percent (86,602 gallons). The remaining, unusable paint would be mixed with absorbent materials, dried and discarded. Labor costs include salary and fringe benefits for a Metro household hazardous waste technician and labor charges for employees of a thrift organization contractor.

Metro's Expectations for Selling Its Recycled Paint

Metro's household hazardous waste program supervisor estimated the anticipated revenue from selling the paint. He assumed that 80 percent of the recycled paint would be sold to non-profits and government agencies and 20 percent would be sold to the public. He further assumed that paint would be sold to non-profits and governments for \$8 per 4-gallon bucket (\$2 per gallon) and to the public for \$12 per bucket (\$3 per gallon). Using these numbers, he estimates that sales could generate gross receipts of about \$190,500.

A consultant tested Metro's recycled paint for performance a few years ago and found that the recycled paint was of good quality and equivalent to a medium grade commercial paint. Currently Metro staff does not intend to warrant that the paint meets standards such as those prescribed by the federal General Services Administration. If it is necessary to meet government standards to sell the paint, Metro will have to determine which standards to meet and how to do it. Metro is hoping to avoid the cost associated with such measures. If steps such as adding virgin paint are necessary to meet standards, Metro believes it could still maintain a relatively low price and maintain marketability.

Metro Should Recover Additional Costs

Metro's February 1999 "State of the Plan Report" states, "Because the minimum handling and processing fees at the hazardous waste facilities cover only a small portion of the actual costs of services, Metro needs to plan for alternative funding sources for household hazardous waste collection services..." We also believe this is necessary.

Selling recycled paint provides Metro an opportunity to recover more of the costs of collecting and managing household hazardous waste. Therefore, we suggest that Metro consider pricing the paint at market for paint of similar quality and characteristics. As a minimum, we believe Metro should charge approximately \$1 more per gallon for the recycled latex paint to recover the paint facility depreciation in addition to direct labor, material and disposal costs.

Since the paint facility is a stand-alone, discrete facility whose capital costs are identified, it is appropriate to recover its cost from the sales of paint. Metro officials told us they estimate the various components of the new paint facility will have useful lives ranging between 5 and 20 years. They estimate the total amortization expense for the facility would approximate \$80,000 annually.

Recovering these depreciation costs would add about \$1 per gallon to the costs of the recycled paint, based on the estimated volume included in Metro's calculations. The total price per gallon (\$3 for governments and non-profit organizations and \$4 for the general public) would still be less than the prices charged by the other sellers of recycled paint identified in our review.

Potential Customers for Metro's Latex Paint Recovery Program

We asked purchasing officials at Clackamas County, Washington County and the City of Portland how their jurisdictions purchased latex paint. The officials told us that they follow the purchasing requirements contained in ORS 279. None of them, however, require their jurisdictions or their contractors to buy recycled paint. Instead:

- Washington County buys paint from a local outlet of a large private company. They then provide it to their painting contractors or to their own work force.
- Clackamas County buys painting contractor services and allows the contractors to purchase the paint and apply it. They do not specify brand names, only that it be good quality.
- City of Portland follows practices similar to Clackamas County.

We asked the officials from these jurisdictions whether they would be interested in purchasing Metro's recycled paint, available in a variety of colors, at a price ranging between \$3 and \$4 per gallon.

The official from Washington County said that he was very interested at that price, but would like more information on the quality and availability. He requested that Metro staff provide him more information when it begins producing the recycled paint at the new facility.

The official from the City of Portland also said she was interested in the paint if it is good quality. She said that the City could revise their bid specifications requiring their painting contractors use the recycled paint. She also asked that we have Metro staff provide her with more details when they begin producing the paint at the new facility.

The official from Clackamas County said that if the paint is available at that price and meets their specifications, he would be very interested and would direct painting contractors to that source. He also requested that Metro staff provide him with more details.

Conclusions and Recommendations

Although latex paint is not technically a household hazardous waste, it is the largest category of disposed waste in household hazardous waste collection programs. It should be managed as a household hazardous waste because it may adversely affect human health and the environment or create a public nuisance. Some government jurisdictions recommend simply drying it out and dumping it into landfills. Others collect and bulk it, then give it to other governments or non-profit organizations. Still others contract with paint companies to remanufacture or recycle it to commercial standards and sell it to the public or back to the jurisdictions for resale or other use.

Over the last few years, Metro has bulked almost all of the paint it has collected and given it to non-profit organizations or local governments. With completion of a new paint facility at Metro South, Metro intends to begin selling the paint to governments, non-profits and the general public. The prices Metro intends to charge are sufficient to recover almost all of the direct labor, material and disposal costs of operating the facility.

Selling recycled paint provides Metro an opportunity to recover more of the costs of collecting and managing household hazardous waste. Accordingly, we recommend Metro consider pricing the paint at market for paint of similar quality and characteristics. As a minimum, Metro should charge an additional amount (we estimate about \$1 per gallon) to recover paint facility depreciation - a total of about \$80,000 in fiscal 2000. The total price per gallon for this paint would then be in the range of \$3 to \$4 per gallon.

Purchasing officials at Clackamas and Washington Counties, the City of Portland and the State of Oregon told us they follow the purchasing requirements in ORS 279 which allows purchasing recycled paint, but none have done it. The County and City officials said they would be very interested in purchasing latex paint at \$3 to \$4 per gallon if it was good quality, met their specifications and was readily available. State officials were not as committal.

Response to the Report



METRO

TO: Alexis Dow, CPA, Metro Auditor

FROM: Mike Burton, Executive Officer *MBurton*

DATE: May 21, 1999

RE: Response to Report on Household Hazardous Waste Program

Thank you for the opportunity to review and comment on your review of the household hazardous waste program administered by the Regional Environmental Management department. Overall, I am in general agreement with your findings, conclusions and recommendations. Below are my responses to your two recommendations concerning the sale of recycled latex paint.

Recommendation: We suggest that Metro price the paint at market as a means of recovering more Household Hazardous Waste Program costs. At a minimum, Metro should charge all customers about \$1 more per gallon to absorb the cost of depreciating the latex paint facility.

Response: I concur with your recommendation that depreciation is a cost that appropriately should be factored into the pricing of recycled paint once it can be sold in smaller containers.

Action Plan: Because the sale of recycled paint serves other important public policy objectives, it may not be consistent to price the paint at market in all cases. For example, Metro recycled paint is used by some organizations and individuals to clean up neighborhoods and to help low-income and elderly homeowners to improve their living conditions. A market price for those organizations and individuals may hamper their ability to continue at the same level those important community services. Accordingly, I will direct REM to determine whether it would be prudent to establish differential prices for recycled paint for different customers (e.g., general public vs. non-profit groups) with a goal of increasing our revenues to the level you have recommended. In addition, I will direct REM to review and report back to me on the appropriateness of its latex paint price(s) after nine months of actual sales.

Recommendation: Also, Metro should aggressively market its recycled latex paint products to other governments.

Response: I concur with your recommendation.

Action Plan: I will direct REM to prepare and provide information within the next 3 months to other governments within the region to promote sales of recycled latex paint. Further, I will ask the Department to explore the feasibility and utility of entering into intergovernmental agreements for the sale of recycled paint. I intend to start these discussions with city and county managers at their next available meeting date.



METRO

Metro Auditor Report Evaluation Form

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Your feedback helps us do a better job. If you would please take a few minutes to fill out the following information for us, it will help us assess and improve our work.



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Please rate the following elements of this report by checking the appropriate box.

	Too Little	Just Right	Too Much
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Length of Report	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Suggestions for our report format: _____

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Other comments, ideas, thoughts: _____

Name (optional): _____

Thanks for taking the time to help us.

Fax: 797-1831

Mail: Metro Auditor, 600 NE Grand Avenue, Portland, OR 97232-2736

Call: Alexis Dow, CPA, Metro Auditor, 797-1891

Email: dowa@metro.dst.or.us

Consideration of the May 27, 1999 Metro Council Meeting minutes.

Metro Council Meeting
Thursday, June 3, 1999
Council Chamber

MINUTES OF THE METRO COUNCIL MEETING

May 27, 1999

Council Chamber

Councilors Present: Rod Monroe (Presiding Officer), Susan McLain, Ed Washington, Rod Park, Bill Atherton, David Bragdon, Jon Kvistad

Councilors Absent:

Presiding Officer Monroe convened the Regular Council Meeting at 2:06 p.m.

1. INTRODUCTIONS

Presiding Officer Monroe introduced Gilliam County Judge Pryor and welcomed her.

Councilor Bragdon introduced Jerod Pruitt, a Reed College history student who will be doing internship work at Metro this summer.

2. CITIZEN COMMUNICATION

Art Lewellan, 3205 SE 32nd, Portland OR LOTI designer, said he supported quite a bit of the transportation work that Metro did in the region. He recently presented his opposition to the north Light Rail proposal but was now reversing his opposition to that project due to the congestion problem. He thought that there was work needed on the rest of the south north light rail project.

He was opposed to ODOT's upcoming plan to resurface the Ross Island Bridge. He felt they should delay the Ross Island Bridge resurfacing in order to widen it first. The widening would rebuild the access ramps on both sides of the bridge. He noted a map of the regional highway system. He felt the Ross Island Bridge improvements would allow a lot of clean up of the cut through traffic including the Sellwood Bridge. He felt the Ross Island Bridge should be handling more traffic. JPACT had judged that fixing the Ross wouldn't fix the Sellwood Bridge problem. He disagreed with this assessment. He encouraged delaying the Ross Island Bridge project until there was a good traffic management plan. He proposed a ramp that ran from Water Avenue, up to the Morrison Bridge and onto I-5 so that you could get to I-5 off that ramp. He also noted the need to include the Grand Avenue viaduct in the plan and made suggestions for improvements. He opposed widening McLoughlin between Tacoma and Southeast 17th. Widening would not help traffic through that corridor. He proposed interchanges at Ochaco and 17th to allow the traffic to go through without stop lights.

Presiding Office Monroe said some of those on the council had been advocating some of those suggestions for a long time.

Councilor Bragdon commented on the Ross Island Bridge work. He had been at a Brooklyn neighborhood association meeting where ODOT gave a presentation about the work. The Department of Transportation assured the association that during construction it would be a mess

but that they would do what they could to eliminate that cut through traffic in the Brooklyn neighborhood. It was clear that there was need for work on the bridge.

Mr. Lewellan felt that if it were done right the first time everyone would be better off.

Councilor Bragdon said he had raised Mr. Lewellan concern about widening. ODOT assured him that there was no way to do that without enormous cost. He shared Mr. Lewellan's concerns but noted that the money was just not there to do this project as he had suggested.

Mr. Lewellan said he disagreed.

3. EXECUTIVE OFFICER COMMUNICATIONS

None.

4. AUDITOR COMMUNICATIONS

None.

5. MPAC COMMUNICATION

Councilor McLain said there were three issues on the agenda that related to the Council. These were: 1) issues on the Growth Report factors. Most factors had gone through the committee, had been embraced as far as suggestions from either staff or the MTAC group. There was one issue that was outstanding and that was the issue of the placeholder for the environmentally constrained lands and what that would mean in the area of Goal 5 or ESA. They thought that was an important placeholder even though that was a factor that had a great deal of swing to it, the 200 foot buffers or the Title 3 which was about half of that area being projected. She noted that legal staff had advised, that what can actually be counted was that which was protected by regulation. 2) Metro Code dealing with changes in how we were looking at Urban Growth Boundary changes. One of the area of interest was when was an actual decision done on the Urban Reserve plan. There was a lawyers group, headed by Mr. Dan Cooper, General Counsel, which will be meeting again and reporting back to MPAC and to the Growth Management Committee. 3) An outreach subcommittee reported some outreach ideas that they would like to see the Metro Council, MPAC and others be involved in. This will be brought forward to the appropriate council for additional information and budget issues.

6. METRO LEGISLATIVE UPDATE

Presiding Officer Monroe announced that Mr. Paul Phillips was detained by the President of the Senate, he asked Mr. Cooper to review legislation.

Mr. Dan Cooper, General Counsel, said he could not update the council on the gas tax. Mr. Phelps had urged all councilors to make as many contacts as they could to urge passage of the \$.06 gas tax. The Metro bill score card included 1062, the conservation easement bill and 1031, the boundary change bill, these bills had now passed both houses and were on their way to the governor for signature. 838, the ability to partition EFU land for parks acquisition was still waiting for a vote on the house floor but was out of the house committee, had a minor amendment that the State parks people wanted that they considered to be supportive of Metro

purposes. They anticipated that this bill would pass the house and the senate. There was no known opposition to this bill. SB 964, the pool chlorine bill, had not fared as well. The pesticide folks thought that that bill had a potential conflict with a bill that the legislature passed several sessions ago preempting all local regulation of sale or use of pesticides. They had not been able to reach a compromise with that industry. The chair of the committee had put a hold on that bill until a compromise had been reached. The bill probably won't go anywhere in this session. SB 1187, the bill which would repeal Goal 14 as it applied to exception land, was the subject of a public hearing yesterday in front of the House Water and Land Use Committee. Metro was one of many entities testifying in opposition. The bill did not come out of committee. They thought that they did a pretty good job of explaining Metro's opposition to the bill. Others also had significant opposition to it. They were continuing to keep an eye on that bill. SB 87, the 20 year land supply for economic development purposes was still in committee, still the subject of work groups that they were monitoring between the governor's office, the sponsors of the bill, 1000 Friends and state agencies. There were a continuing series of proposed amendments which Metro was watching. He would anticipate that bill would probably be coming out of committee sometime next week. He noted that many of the committees had already closed and they were trying to limit the items on the floor.

Councilor Park asked about SB 964, the pool chlorine bill. He asked why chlorine would be considered a pesticide.

Mr. Cooper said pool chlorine had calcium hypochloride in it, the chemical in pool chlorine was considered a chemical that killed things. Because it was a chemical used to kill things there were those who thought that made it a pesticide. It was not a classic pesticide. Metro's position was that they were not regulating sale or use, simply disposal. The national organization opposing the bill was not willing to agree to that and in the absence of that agreement, the chair had said no.

Councilor Park asked for clarification, was one of the chemicals registered by the Department of Agriculture a pesticide.

Mr. Marv Fjordbeck, Legal Counsel, said yes that was the case. General Counsel had described the opposition accurately because the Oregonian's believe that it may be covered by this pesticide preemption, an opinion that the Metro's Office of General Counsel, did not share.

Councilor Park indicated he may be asking more questions later.

Councilor Kvistad asked if they realized that when the chlorine got into the waste stream that it ended up killing employees, that this was a toxic gas.

Presiding Officer Monroe indicated that Councilor McLain told them this when she testified on the hill.

Mr. Cooper said that another person who almost died testified concerning this bill.

Presiding Officer Monroe asked about prison siting, was it still sitting with Lynn Snodgrass.

Mr. Cooper said as far as he knew.

7. CONSENT AGENDA

7.1 Consideration meeting minutes of hew May 20, 1999 Regular Council Meeting.

Motion: **Councilor McLain** moved to adopt the meeting minutes of May 20, 1999 Regular Council Meeting.

Seconded: **Councilor Bragdon** seconded the motion.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed.

8. ORDINANCES - FIRST READING

8.1 **Ordinance No. 99-806**, For the Purpose of Granting a Composting Facility License to the Relocated City of Portland Leaf Composting Facility.

Presiding Officer Monroe assigned Ordinance No. 99-806 to the Regional Environmental Management Committee.

Presiding Officer Monroe indicated that Resolution No. 99-2786 would be taken out of order. He recessed the Council and convened the Contract Review Board, which was item 11.1 on the agenda.

11. CONTRACT REVIEW BOARD

11.2 **Resolution No. 99-2786**, For the Purpose of Approving Change Order No. 24 to the Waste Transport Services Contract.

Motion: **Councilor Washington** moved to adopt Resolution No. 99-2786.

Seconded: **Councilor Bragdon** seconded the motion.

Councilor Washington said this resolution dealt with the Change Order No. 24 with the STS. He asked Mr. Terry Pederson to review this resolution.

Terry Pederson, Interim Director of the REM Department, said this resolution would authorize the executive officer to enter into a change order with Metro's transportation contractor, Specialty Transportation Services. This was a transportation contract that the Council entered into on January 1, 1990. It was a 20 year contract that would expire in 2009. The annual payments to the contract were about \$9.9 million. Metro began discussions with STS regarding their transportation contract at about the same time they were discussing the disposal contract with Waste Management. Metro had three objectives that they were trying to accomplish during the discussions. First, they hoped to reduce the transportation cost. Second, they park a number of their trailers at Metro South Transfer Station property, Metro hoped to address some space problems there. Third, Metro hoped to maintain as much as possible its flexibility regarding future transportation modes.

The key elements in the change order were: 1) Metro would prepay the fixed portion of the contract, we currently had both a fixed and a variable payment in the contract, the prepayment would be \$6.6 million. 2) Metro would release \$2.5 million in retainage that Metro was

withholding from payment to the contractor in order to have a retainage in the event of a default, in return, STS would reduce the per load price by \$30 per load with 30 tons per load that was about \$1 per ton reduction in the transport price, 3) they would eliminate the shuttle price so that Metro paid them each month for shuttling trailers at the Metro South Transfer Station between the parking area and the compactor. That payment was \$96,000 annually, and they would continue to do that work without the payment from Metro. 4) they would move most of their trailers off of the lot at the station in Oregon City, Metro would only be required to provide them with 10 storage spots for their trailers.

In terms of the financial benefits of that package, the future payments to STS would be reduced by \$18 million over the remainder of the contract. When you consider the prepayment and the lost interest from that prepayment of about \$9 million the net savings to Metro would be about \$9 million. One of the issues the REM department discussed in Councilor Washington's committee was the risk of prepayment in the event of contractor default. The contractor would provide Metro with a \$4.1 million letter of credit in the event of default. They would also provide a corporate guarantee from the parent company, Ashy Transportation, and Metro could also withhold payments from them in the future. Those things together reduced the risk that Metro faced in the event of default. In terms of Metro's objectives, the reduction in the transportation costs was a \$9 million savings. If you wanted to look at it in terms of return on investment, that was a 21% rate of return on \$6.6 million investment. In terms of addressing the space problems at Metro South, they would move the trailers off of that area, that would free up space that Metro could use for more waste recovery and for queuing space for the public, which would help Metro eliminate some of the problems they had with queuing there. Finally, in terms of future transportation options, Mr. Pederson highlighted that there was no extension in this change order of the contract, it still expired under the original time frame, and the council at that time would have choices regarding future transportation modes.

Councilor Washington said that the Council had been informed about this all along the way, but he felt that today, since there would be a vote on it, that there should be the opportunity for the Councilors to hear the figures again and make sure everyone understood how this was working, what the risk was, and what we had done to minimize that. He thanked Mr. Pederson.

Councilor Park asked Mr. Pederson about the analysis, in that there were several changes other than maintaining the ability to withhold payment from STS. We also had access to STS's equipment, which was worth about \$600,000, and in terms of avoiding about \$1 million in costs in relocating the parking, so as we went through the numbers, we were prepaying \$6.6 million, and receiving back in value \$6.7, was that correct?

Mr. Pederson said Councilor Park was correct when you consider those additional factors, the total protection exceeded the risk of \$6.6 million.

Councilor Bragdon noted his conclusions after reviewing this resolution. He had had concerns. First, was this a chronic structural problem with a company that may be in trouble, or was it a transitional step, something to do with their corporate circumstances at the time, and then they were in for smooth sailing. The question was was it like a Penn-Central situation where there was structural problems, or was it like a Chrysler situation where there was just some temporary changes they needed to go through. REM's presentations in committee and elsewhere assured him that this was just a transitional step, this was a sound company, there were no chronic problem. Second, was the risk to Metro of this prepayment—Mr. Pederson had mentioned a

letter of credit, it was worth noting that the letter was from a first-class bank—if there were a default, and there was no indication that there ever would be, Metro wouldn't be dealing with a bankruptcy court, we wouldn't be dealing with a company, we would be dealing with a first-class bank. On those two points this seemed to be a very sound deal for Metro. His final conclusion was that when we had a contractor who was performing and had shown that they could perform, we negotiate the best deal that we could for the rate-payers and the taxpayers, and then go ahead with them in partnership. This was a case where Metro had done that.

Councilor Kvistad said his only concerns had been that when you get into a situation where you were dealing with a public/private sector relationship in contract you had to be very careful about the ways in which you approached your private sector partner, because the relationship was not an equal one, the government and the regulating agency always had the upper hand, that had been one of his big concerns, because the savings were terrific. He thought they dealt with STS in a positive way, but we put pressure on them to come back to the table to renegotiate a contract that they in good faith had available to them for X duration. As a private sector person, it was one of the things that he was concerned about. He did talk to the contractor, they felt comfortable, he didn't know if one was ever comfortable about renegotiations, but they felt as comfortable as they could with what was on the table. Also, and up-front payment on a contract by a government to a private sector in order to facilitate the renegotiation was sometimes disconcerting. He thought staff had done a good job and thanked STS for being willing to come back to the table as a partner and work with Metro. It was something for us to be mindful of when we were in a relationship with a private sector contractor or the private sector. Metro was the ones that had the upper hand and we had a responsibility to understand that in our negotiations and make sure that not only now, but in the future, that we handled them understanding that power imbalance.

Presiding Officer Monroe asked if it was the council or STS who asked for the renegotiation.

Mr. Pederson said that Metro initiated discussions with STS at the time we were considering termination of the disposal contract. There was a clause in the disposal contract that said that if we terminated the disposal contract we could also terminate the transportation contract. We chose not to do that, so that was off of the table at that point, there was no threat of termination of the contract as part of these negotiations. Metro continued discussions and actually the contractor initiated the final discussions with Metro. Mr. Pederson viewed this as win-win for both Metro and the contractor. The representative of the company was here and may want to address that.

Councilor McLain said that two other elements she felt were important, particularly in the conversation the Council had so far with the Director of Solid Waste. One was that we needed more space at the South Transfer Station area, and by having more space we would be able to improve our efficiency and our service to the public. She thought that long-term contracts had their own, special management problems, but there should also be some benefits, and that was that we tried as much and as long as we could to continue to refine those contracts to do a good job with our service provision. She thought they had gotten an important element there in getting more out of our site and our space in Oregon City. The second element was the flexibility for transportation options, again with a long-term contract, like this one, we might want to revisit or revise the way we transport or dispose of our waste in this region, and this gave us more opportunity to actually further that conversation. Finally, she thought staff had done an excellent job of making sure that when you were dealing with a public and private entity that

Metro was being fair to both, trying to protect public dollars and protect the public with their investment and also allowing the private industry to flourish and be able to do a good service and a good business for Metro. She appreciated the work of the Solid Waste Director and others who had worked on this contract negotiation.

Presiding Officer Monroe said they would vote on Resolution No. 99-2786 and immediately after they would deal with the companion Ordinance No. 99-798 which allocated the funds. He opened a public hearing on both the Resolution and the Ordinance.

Warren Stenhouse, 7820 SE 112th, Portland OR spoke on the Change Order regarding STS. He worked for neither STS nor Metro, nor did he have any direct, indirect, or potential interest in either. He was here today speaking as a Metro ratepayer. It sounded like Metro and STS had reached an agreement which both sides were satisfied with. He was not there to address whether one side benefited more than the other, although the agreement sounded even-handed and fair. He was there because he thought it was in his and Metro's best interest to keep STS or any other of its contractors healthy for the remainder of their contracts if it could reasonably do so. He thought Mr. Goldberg and his company were ethical and prudent in their business affairs and would fulfill this contract as agreed upon, to echo Terry Pederson's comment, he believed that the change order was a win-win for both sides, and he urged the Council to approve the change order as it was read.

The Honorable Laura Pryor, Gilliam County Judge, shared some of her memories of the process. People really had short memories. She remembered when Metro was in the old building and made the decisions that started this whole process and the night that there were so many people in the Council Chamber that they spilled over not only into the lobby, but they were outside. She remembered that the two choices before the Council was the Gilliam County site or Becona Road. The Becona Road folks were there knee-deep with their attorneys. It was not going to be a pleasant situation. What brought the Council to that night was almost ten years or better of searching for an answer to a terrible problem. For some reason the federal government thought that St. Johns had too much water too close to it, and it was a very bad, tough issue. She thought the Oregon Legislature stepped away from it and handed it to Metro. Another thing she remembered was that everyone was a hero for about an hour and a half after that solution, and then all of the fault-finding started again. She thought she personally spent the first five years of this process almost daily dealing with solid waste. She never thought she would spend five years of her life after that decision dealing with issues, none of which had very much to do with the physical operation of either the site or the transportation piece. It was a lot of peripheral perceptions more than did this operate within the law, within the requirements, did it work.

Having said that, she needed to share with them that from her perspective Gilliam County and she got complacent after the first five years. It got to be a pretty good operation running smoothly, getting the kinks worked out of it. She thought she was complacent, and she woke up last November and realized she didn't know anyone any more, she knew the people with the companies, but she didn't know anyone on this end of it. They had lost the connection that we had in the beginning that brought us to the table in the first place that gave her community the comfort level dealing with the second largest legislative body in the state after the legislature. That was not an easy thing for a county her size to do, but they had a feeling of comfort because of the people that were involved, Metro had great staff, and they still did. The Councilors all were thoughtful, reasonable people, that approached public policy from a very sound standpoint, that gave Gilliam County the security that they could do this, because the buzzword nowadays

was partnership, that's what they believed they were entering into. When she realized in November that she didn't even know who to speak to, because she let that happen, they became so complacent with what had been created, and that shouldn't happen again, it's not good for either end of the system.

Gilliam County believed that the transportation link was what connected the two ends of this and made it work. She came to tell them that from her daily experience, ten years, with this particular contractor had been absolutely excellent. They were the only trucking contract in the gorge that had to go before the review of the communities that they passed through. There were a lot of contracts out there that should be reviewed and there was no way for a governing body to do that. They were a good neighbor along their route. If you asked the Oregon State Police in any of those offices, whether it was Hood River, Cascade Locks, Arlington, or Wasco County what trucking companies were the good neighbors out there they would tell you this was number one by far. That was a comforting feeling for her as she drove to and from Salem, 9000 miles since February. STS had driven over 60 million miles and they had an excellent record. When we first started putting trash in trucks and hauling it up the gorge, the thinking was—she felt good to sit there and say that the contract worked very well. From their point of view, her reporting to the Council, as the jurisdiction on the receiving end for these tons of trash, it worked very well. The piece that could go wrong the fastest was the tons that moved every day, and that was the piece that could bring us more problems so fast that you didn't even want to think about it. She was grateful to the company that they had been so willing to stand up to the scrutiny, stay the course, and do such a good job, because it could have been very ugly, and it hadn't been.

Councilor Atherton asked Judge Pryor about the trucking operation. He indicated that they had discussed trucking aggregate, rocks, back in the empty trucks. The region used quite a bit of aggregate for concrete. Clackamas County was pretty concerned about the impact of gravel mining in the rivers, and if this was curtailed Gilliam County was another source. They had talked about this with Gilliam County because there were 50 trucks daily coming back to the region empty, was there anything in this contract that would preclude the benefit of hauling rock back to the Metro region.

Judge Pryor said she didn't know of anything. She had discussed this with Gary Goldberg in the past two months extensively, and they had talked to the Metro staff about this. Gilliam County had been treading water while Metro to work through this process. They were then going to sit down and get very serious about that issue. One of the things that Metro's major capital investment created was a transportation system, and it was coming back from the east side of the state empty and aggregate was the only thing that could come back.

Presiding Officer Monroe closed the public hearing.

Councilor Washington urged an aye vote.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed unanimously.

Presiding Officer Monroe adjourned the Contract Review Board and reconvened the Metro Council.

9. ORDINANCES - SECOND READING

9.1 **Ordinance No. 99-798**, Amending the FY 1998-99 Budget and Appropriations Schedule in the Solid Waste Revenue Fund by Transferring \$6,592,000 from Contingency to Materials and Services in the Regional Environmental Management Department for Prepayment of Fixed Payments as Set Forth in Change Order No. 24 to the Waste Transport Services Contract; and Declaring an Emergency.

Motion: **Councilor Washington** moved to adopt Ordinance No. 99-798.

Seconded: **Councilor Park** seconded the motion.

Councilor Washington reviewed this ordinance. This was the budget amendment, there was currently \$14,447,729 in the Solid Waste Revenue Fund. After this contract took out the \$6,592,000 there would be a balance left in that contingency of \$7,855,729. This payment was not to exceed \$6,592,000 the actual amount would be calculated by the Solid Waste Department after this council took action on this ordinance. He again urged an aye vote.

Presiding Officer Monroe opened a public hearing. No one came forward. **Presiding Officer Monroe** closed the public hearing.

Councilor Washington thanked both the Metro staff, STS staff and Judge Pryor.

Vote: The vote was aye/ 0 nay/ 0 abstain. The motion passed.

9.2 **Ordinance No. 99-802**, For the Purpose of Amending the FY 1998-99 Budget and Appropriations Schedule in the Planning Fund Transferring Appropriations from Capital Outlay to Materials and Services for the Transit Oriented Development Program; and Declaring an Emergency.

Motion: **Councilor Bragdon** moved to adopt Ordinance No. 99-802.

Seconded: **Councilor Washington** seconded the motion.

Councilor Bragdon said the transportation planning budget included a line-item for the Transit Oriented Development Fund. Currently that had been shown as a capital outlay; when the outside financial auditor came through and reviewed they found that it would be more appropriate to have that not as a capital outlay but as materials and services because the land being acquired didn't remain in Metro's inventory as most capital assets would, because Metro was just holding it as a transitional step. This was basically a matter of the nomenclature in the bookkeeping, it was not an increase or decrease in the fund itself.

Presiding Officer Monroe indicated that when he was in the legislature they called this a housekeeping measure.

Councilor Bragdon said that this change was approved unanimously by the Transportation Committee and he hoped the Council would do the same.

Presiding Officer Monroe opened a public hearing on Ordinance No. 99-802. No one came forward. **Presiding Officer Monroe** closed the public hearing.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed.

9.3 Ordinance No. 99-804, Amending Metro Code Section 4.01.050, and Revising Admissions Fees and Policies at the Oregon Zoo.

Motion: **Councilor Washington** moved to adopt Ordinance No. 99-804.

Seconded: **Councilor McLain** seconded the motion.

Councilor Washington said in the past admission charges at the zoo were increased on a fairly regular basis to cover the increase in operating costs at the zoo. He meant pre-1994 as the past. The last fee increase was January of 1994 and after that time it was decided that admission increases would be on hold during the construction of the Tri-Met station, the new parking, and new entry facilities at the zoo. These three constructions projects had been completed, and although construction of the Great Northwest Project continued at the Oregon Zoo, it had been determined that an increase in the cost of admission was needed. Several factors had influenced this decision, the passage of Measure 47 and 50, which reduced the property tax received by the zoo to support their operating costs as with all departments at Metro that were impacted by those measures. Even with the fee increase at the Oregon Zoo, the admission fee would still remain among the lowest among comparable zoos on the west coast. The fees that were being proposed to change were as follows:

	Current Admission Fee	Proposed Admission Fee
Adults	\$5.50	\$6.50
Children	\$3.50	\$4.99
Seniors	\$4.00	\$5.00

These would be effective October 1, 1999. Also, if this was passed by the council it would update the admission fee and policy section of the Metro Code for one which was recommended. He asked if the zoo director, Mr. Vecchio would like to say anything. He thought this was a straightforward fee increase. Fee increases were never made lightly, they understood the impact that it had on families and the public, but you still had to operate the zoo, keep it open, pay the bills; after careful consideration, this was where we were.

Councilor McLain said there was only one section which she was concerned about, she was unable to attend the committee meeting, but after reading through the language today she felt the special admission days had been considered and there was still an adequate amount of special admission days. Her understanding was that under the old system there would have only been nine special days, six days with rates established by the code, and three additional special admission days that would be allowed every year by the director if designated for certain groups. Under the new one there would be at least one special admission day per month. Her understanding was that that would be twelve. With that understanding she felt comfortable going forward with that. The ordinance said that "admission to the zoo shall be free for all portions during a portion of a day each month to be designated by the director." The director got to choose what that day would be. She found that to be adequate for taking care of the parts of our community that don't have the ability to deal with the old or the new type of fees that we would be charging. She thanked the staff at the zoo for doing a good job of looking at the Washington and California rates and other facilities, of which there weren't too many in the state of Oregon that would compare to the zoo. She thought there was something else to consider, and

that was that as they raised the rates we had also improved the service and the facility. There was more restaurant facilities, banquet facilities and new exhibits, so they were getting more for their dollar.

Councilor Kvistad said that he brought up the children's admission policy two or three budget cycles ago. He was still concerned about the increases in children's admission fees, he preferred them to start looking at a slightly higher increase in adult prices to either keep the amount we charged for children's admission either at or lower than it was currently. We didn't have that discussion this year in part because he didn't have a proposal that was specific enough to bring before the committee. He understood the need for the increases, for a lot of families this was the one place that people can bring their families, it was fairly reasonable, and for a family everything seemed to be getting more and more expensive. Our costs go up, therefore we do have a responsibility to make sure there our facilities were funded. What he wanted to put back on the table at this time—he would support this ordinance, but he would like them, possibly in the operations committee, over the next six months, he would bring forward a proposal to mitigate children's admissions and see if they could reduce them. He thought that would be a healthy thing to do, but it wasn't something that he wanted to go to the wall over here.

Presiding Officer Monroe asked Tony Vecchio, Oregon Zoo director, to outline briefly some of the special programs that we had for children at a reduced rate, whether that be schoolchildren or groups or free days that might go along the line of allaying some of the concerns expressed by Councilor Kvistad. He was sure that they all had those concerns.

Mr. Tony Vecchio said there were several things. First, as Councilor McLain pointed out, we did have a free day for everybody, not just children, but anybody on that day. Certainly folks that couldn't afford the zoo normally could take advantage of that day. We did have group rates for children coming on field trips. One thing that would be addressed by this change in policy was a little more flexibility in how we operated. Because of the way the code was written now it was very difficult to do special things for students, and as the deputy director pointed out to you last time with this change in ordinance, we would be able to be more flexible if there were students that were working on a school project, or a group that for whatever reason couldn't afford to come to the zoo. The zoo director would have the ability to waive admission or even give a special rate to get those kids in. It was a high priority to him and the staff that they reached out more to the community, and that was one of the reasons that they were asking for this change in policy, in order to give the Zoo more flexibility to do those kinds of things.

Councilor Washington asked how we broadcast that free day to the public and what were the exact times on that particular day they could come in?

Mr. Vecchio said they hadn't had to market it because everybody knew that the first Tuesday afternoon of the month was free. We didn't advertise it, he didn't think they needed to, he thought people knew.

Ms. Kathy Kiaunis said they also had special free days for disabled groups, we had a Hispanic free day in the past, we advertised in those cases to bring special groups in for that. These days always very well attended, and one of the things they're talking about was that they cause traffic jams on the highway in the summer, so they were going to look at that to see what they could do to make sure everyone got in.

Councilor Washington urged an aye vote and he appreciated the information. It was hard sometimes to remember all of these dates. He felt comfortable that even though we had to ask for some additional funds to operate the zoo we were really making a tremendous effort to make sure that those who might be in a little more need than some other people had the opportunity to attend.

Presiding Officer Monroe opened a public hearing on Ordinance No. 99-804. No one came forward. Presiding Officer Monroe closed the public hearing.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed.

10. RESOLUTIONS

10.1 **Resolution No. 99-2791**, For the Purpose of Approving the FY 2000 MTIP Modernization Program Developed Through the Priorities 2000 Process.

Motion: **Councilor Kvistad** moved to adopt Resolution No. 99-2791.

Seconded: **Councilor Washington** seconded the motion.

Councilor Kvistad said Metro, over the last year, had been going through the update of the state transportation improvement plan, or the MTIP, which was the regional transportation improvement plan. A TIP was a transportation improvement program, the bundle of projects that made up the package of roads, bridges, all of the different things that were on the list. The state then had the STIP, part of that was broken into regions around the state, we were in region 1, so the MTIP, or Metropolitan Transportation Improvement Program was the State/ODOT/region 1 area. In the last round of the STIP package the federal government hadn't yet finished the reauthorization of what was called IS-TEA, the intermodal service transportation efficiency act. The federal government was reauthorizing all of the federal transportation money across the country, so they developed a new package. The new package was T21, transportation improvement package for the 21st century. In T21 the federal government allocated additional moneys, more than we were expecting and the country was expecting, therefore Oregon's share was increased, therefore our portion of the moneys we had available came in at about \$75.8 million that we had to allocate that we didn't have when we first put together our transportation package. That was the beginning. We had a \$4-5 billion unmet need, we had \$300 million in critical need or important programs and projects that people from around the region wanted in jurisdictions, wanted us to fund, but we only had \$75 million. The joint policy advisory committee on transportation, JPACT, in coordination with this committee and this council held a series of public hearings. He thanked everyone for taking the time to come and sit through some difficult hearings on how to allocate this money. The federal money was what was known as flexible funds, which meant they could be used for a variety of different things, not simply pavement. According to the federal guidelines 100% could have been used for alternative modes, other than roads, but a maximum of 52-53% could go to roads. We came to a balance over a long period of time with a lot of players to balance those dollars out between where we were and the different kinds of requests, whether it be for buses or for highways or anything in between to come up with the package that was before Council today. The package showed the original requests, what was recommended to this body and to JPACT, and then the final allocations. In addition to that there was \$26 million that was being allocated from ODOT to finish the third lane on the sunset highway, so any of you who were affected by that bottleneck,

this package funded the completion of that and the third lane to really take care of one of the major bottlenecks on the west side.

Councilor Washington said to the chair of JPACT and Transportation Planning Committee, Councilor Kvistad, that this process was about the best job we had done. Considering what we had and what the need was, this body along with JPACT and all of the other partners in the region did an excellent job of taking a difficult process and really making something worthwhile of it. He appreciated the hard work that everyone put into this.

Councilor Park also gave accolades to Councilor Kvistad, he did a fine job of running some very contentious meetings, both public hearings and also the JPACT meetings. He asked if the change in the gas tax potentially occurring, what would be available to go back and revisit being in one of those districts, part of the east, that we got the shortest end of the stick.

Councilor Kvistad said until we knew what and if there was a package from Salem. Presently this was the only money on the table, and the allocations that currently exist were the only dollars that we had. Should the legislature allocate and should they pass forward a \$.06 per package where they did pre-bonding we would have some additional moneys. Until we knew how much, he didn't want to put out there that there would for certain be additional dollars for programs. The likelihood was that we would have some additional moneys and then we would go through a process similar to this to allocate those funds, hopefully not quite as contentious.

Mr. Andy Cotugno, Transportation Planning Director, said any money that the legislature might adopt will either go to ODOT. There was discussion about a state modernization program, or through normal formulas to cities and counties and ODOT. It was expected that if there was an ODOT modernization program we would be part of a discussion about how those moneys were spent, and whatever those moneys were spent on they had to be consistent with our plans. This money, generally speaking, was not funding very much in the way of those ODOT modernization projects, in fact, the only one was that highway project that was referred to. All the rest was on city and county roads, not on ODOT roads. That brought the second half of the question, if a local government, through the increase in gas taxes that got distributed out to local governments, they would have an opportunity to spend some of their money on some of these projects as well, and there were a variety of places in here where we had funded a partial project, and the question of completing those projects with some of those state gas taxes that they might receive would be available for discussion. The direction he took back from JPACT was, after we saw what happened, bring the whole issue back to JPACT and assess, what did we get and how might it supplement these allocations, and how might it change what we had already allocated. They wanted to have that discussion once they saw what the picture looked like. He anticipated that they would have that discussion later in the year.

Councilor Park asked that given that the tax money that would potentially be coming from the legislature could only be used for roads, would there be an opportunity to go back and look at how some of this other money was dispensed that could have been used for other projects. Was it possible to go back and reallocate if we had an opportunity.

Councilor Kvistad said it was possible, but not likely. There would be some discussion, should there be moneys freed up, some of the jurisdictions, and in our discussions we did talk about one or two small areas where there may be the opportunity to change allocations. It was very difficult with the process we went through to move the moneys around now that the jurisdictions

were expecting them. For example, Washington County had additional funds that came in for an overcrossing that they were able to put back on the table, because those funds came in from another area, and they shared them with the region. We did have a working relationship with all of our partners where that sometimes did occur, and it was a very positive place to be. It was not something to count on, but there was a possibility that that could happen, but we were not going to know that for a couple of months at the earliest.

Councilor Park gave an example, in district 1, on 207th we used some flexible funds to do a road project because there was an overcross and we underfunded the boulevard project and some other work in the area. Was it possible within the county or within that jurisdiction, if money became available to move some of that around so it could fund the right projects. It depended upon which projects got funded in that area, you could end up with only low-priority projects to spend the money on.

Councilor Kvistad said that if it was on our project list and the county wanted to reprioritize the funds to fund projects that were already on the list, with those moneys, we would give them flexibility, they would have to come to JPACT for the discussion, but we had never disallowed a local government shifting their priorities with their own allocated funds, other than they had to be coordinated by the regional consensus that we had developed. If they wanted to move moneys amongst those projects by their own vote, so long as they came and ran it by Metro and there was agreement, there was no problem on our part with that.

Councilor Bragdon said with regard to Multnomah County, they did mention at the JPACT meeting the potential of backfilling certain items if the gas tax, which was shared with cities and counties, came through. One thing about this process was there was a tremendous amount of deference to local jurisdictions in terms of their own priorities and identifying their needs. Your question really got to the problem with this whole area, which was the lack of funds. How funds which could otherwise be used creatively, because they had fewer restrictions, were not used creatively. That was one of his disappointments with this particular process and the outcome of it, but it was a sad fact of money and that was true in a lot of areas, not just in transportation in Oregon. When we pride ourselves on doing things differently and not being like Atlanta, where the environment and the economy were both threatened because of transportation decisions that they had made, or Los Angeles, where international trade, which was something we depended on here, and air quality were both hampered by transportation decisions that they had made. We tell ourselves that we were not going to make those mistakes, we had a different vision for the way things were going to be, and we needed to invest in that vision, and he didn't think we were doing that. It was clear from this collection of projects that we weren't doing that, and that was without regard to the merits of the projects, everyone had different views about the merits of different projects. It was a similar situation with school reform that we were reading about in Oregon. It was easy to have the vision, but stepping up and paying for it and persuading the public that it was worth doing was another matter, and we, unfortunately, have a long way to go in doing that here, and tying the land use vision and the type of community we wanted. He hoped in the next round they would be able to use these funds more creatively to support a community type of vision that the public would support. He would be supporting this resolution today.

Presiding Officer Monroe suggested that the Councilors e-mail their representatives today concerning the gas tax. We voted unanimously to support the gas tax.

Councilor Atherton said in any of these processes there was good news and bad news. The good news was that many people who came before them to speak about this very small pot of money was the number of folks who were willing to step up and take responsibility locally for their share of the projects, and increasingly we saw folks come forward and say they would do this as a local improvement district, since they were receiving the greatest benefit, therefore they would put in the greater share. Either as a local improvement district or through system development charges, that was a step in the right direction. That communication was getting through, and that was to all of our benefit. We knew that growth must pay its own way, and this was one way for it to happen. Still, we had the overarching pressure to continue to do things the old fashioned way and not be so different here, and that was what Councilor Bragdon was talking about. It was the automobile, the automobile, the automobile. We had said that we want to have more innovative, more multi-modal projects, and that we were looking for bicycle and pedestrian improvements here that had been underfunded in the past. Here was an opportunity to use these flexible funds from the federal government. It was a very small proportion of this measure, and that was what all this talk was about if we had a gas tax and we used those constrained funds that must be used for automobile use that if we had a larger portion of those funds we could backfill and then switch over some of these funds that were in this project being used for automobiles and use them for other modes. We were going to be having conversations about the regional transportation plan in the next few months, he thought that would be their next bite at the apple. Hopefully, they could come to some clarity of that issue, the amount of funds we would have available. There was an expenditure here which was not being shown and that was the \$35-50 million annually in underfunding for maintenance and preservation of our existing system. That didn't show up in the books here, but it was on the books, it was part of reality, and people needed to know that just \$.01 of gas tax in this region would generate a little over \$5 million annually in revenue, and if we were talking \$35 million, that was \$.07 right there. Folks needed to know that until we took care of that unfunded maintenance and preservation that that was a tax on our kids. That was a sobering note, it was not something to be proud of, but it puts it in perspective. We collaborated, we had open discussions on this, but they were going to have to continue, and this wasn't the end of the discussion. He would vote for this, but not without some reservation.

Presiding Officer Monroe opened a public hearing. No one came forward. He closed the public hearing.

Mr. Cotugno said they had submitted a revised version coming out of transportation planning committee that recognized that first transit allocation of \$18 million towards buses, and this packet still had the lightrail version, but the one that should be adopted was the bus-version.

Councilor Kvistad closed by saying it was difficult when you chaired some of these, many of you know where he was on a lot of these transportation issues, and when he was sitting there carrying something like this as the chair of JPACT and the Transportation Committee, he would keep his comments to that specifically. We had a real bumpy ride ahead in terms of setting priorities in this Council and region-wide about where we wanted to go with transportation funding and where some of the problems were, but this in particular was a very big win, not only for Metro, but for the region. We actually saw what was very good about what we did as a body and as an agency. It made him proud to work with so many people that represented so many different points of view, jurisdictions, and to come up with a package after a period of time that really was as balanced and as forward thinking as we could have it, and met as many of the needs that we could possibly meet with so few dollars. As he said before, \$75 million seemed like a lot

of money, but in the regional checkbook for transportation money it was next to nothing, but we were able to target it to some very solid projects. He thanked all of the JPACT members, all of the jurisdictions, all of the people who came to the public hearings, they all did a terrific job of working together and coming up with a great package. He also thanked the Council for all the work and time they put into this. It was a good learning experience. He thanked TPAC, MPAC, Andy and his entire staff.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed.

10.2 **Resolution No. 99-2794A**, For the Purpose of Urging Balance in the Regulation of Pesticide Use in an Urban Area.

Motion: **Councilor Park** moved to adopt Resolution No. 99-2794A.

Seconded: **Councilor Bragdon** seconded the motion.

Councilor Park said he had some concerns about pesticide use in the environment and noted that their use had been coming under increasing attention. He said there were requirements for the application and sales of pesticides which were regulated by the Department of Agriculture through the state Pesticide Control Act for rural and/or farming areas and for commercial applicators in urban areas. He felt there was a need for additional information because of water quality and health concerns. He said areas looking at using Willamette River water should be able to know what could be going into their systems. He noted Metro's direct interest in the pesticide issue was because the effects in urban areas were primarily unknown. He noted Metro's interest in water quality, land use, water supply, parks, open spaces, and the recent ESA listings. He said there were still a lot of questions that needed answers and the urban environment was unique due to stormwater runoff being connected to the river system. He said even though the percentage of total pesticide use statewide was less in urban areas, it was magnified because of that system. He noted that the governor supported the concept, but not without an urban component, and the Board of Agriculture had also gone on record in support of that position.

Presiding Officer Monroe assumed if this resolution were approved, copies would get to the proper water policy committees in the legislature and elsewhere.

Councilor Atherton felt some people may have the perception that urban pesticide users had not been supportive of this type of measure, or aware of the impact on the environment. He said the members of the League of Oregon Cities had endorsed the concept and the comprehensive nature of it. He added that he hoped supporting the measure would not sidetrack or slow down the effort because of the complications of tracking pesticides use in urban areas. He asked about the differences in volumes between rural and urban areas.

Councilor Park did not have exact figures. He added that the difference was proportional and there was a higher percentage in the urban environment because of the concentration in a smaller land mass. He said there was a bill currently in the legislature that would clarify that.

Councilor Atherton shared an incident that happened to him when a large plumbing company helped him deal with root problems and a clogged sewer line. He said the workers dumped a package of blue crystals down the sewer line and flushed water through. When he read the bag, he found that the crystals were copper naphthate and it said on the bag not to use it in or near

water systems as it was very harmful to fish. He wondered if the waste water treatment systems were able to remove such chemicals. He felt this resolution would correctly raise people's awareness of such chemicals being used. He said he expected to support this resolution.

Councilor Bragdon supported the resolution and felt it was important as urban dwellers to step up and take responsibility for this and do it in the spirit of bridging the urban/rural divide. He felt that gap was sometimes the cause for inaction. He felt everyone needed to do what they could to get the point of the resolution across.

Councilor Kvistad commented that people in urban areas sometimes forgot that the whole state was often affected by regulations for urban communities, and vice versa. He said he was still undecided about this resolution and asked for some explanation as to why it would meet his philosophical test.

Councilor Park responded that HB 3602-4, currently in Ways and Means at this time, had the support of the agricultural community as well as the governor. He thought that was about as wide a schism as you could get about supporting a controversial issue like this one. He explained they had considered a "right to know" act instead of a "reporting" act but felt it went too far in terms of privacy issues. He said the current bill would allow factual information to be gathered from both the rural and urban sides of the issue.

Councilor Kvistad said he was okay with the concept but wanted clarity of who was reporting, and what exactly would the regulations do.

Councilor Park said that was a good question that did not have an answer yet. He said part of the bill was to do a 2 year study to find out the most cost effective way to get that information. It was possible that the reporting methods would be different for rural and urban areas.

FRIENDLY AMENDMENT: Councilor Kvistad said if the wording of the resolution could be changed in "Be It Resolved, #2" to say "the Metro Council supports regulations requiring a comprehensive statewide reporting of the sales ~~and~~ and/or use of pesticides", he could support it.

Councilors Park and Bragdon, as maker and seconder of the motion, agreed to the friendly amendment.

Councilor McLain said the Regional Water Consortium had indicated an interest in this type of regulation. She thought it was extremely important for this council to be aware as they passed this resolution, that the water providers and the water managers were very interested in the material and the studies and reporting that would be done if this legislation passed at the state level. She felt by passing the resolution the Metro Council was also voicing support to the regional water supply plan.

Councilor Washington said he would support the resolution.

Councilor Park closed by saying he appreciated the support for what he felt was a very important stand taken by the council.

Vote: The vote was 7 aye/ 0 nay/ 0 abstain. The motion passed as a "B" version.

12. COUNCILOR COMMUNICATION

Councilor Washington invited the council to take a canoe tour of the Smith and Bybee Lakes and the Leadbetter Peninsula. He told of all the wildlife they had seen on the trip. He urged the council to take advantage of the trip Emily Roth in Parks was giving.

Councilor McLain said the June WRPAC meeting would be June 21st.

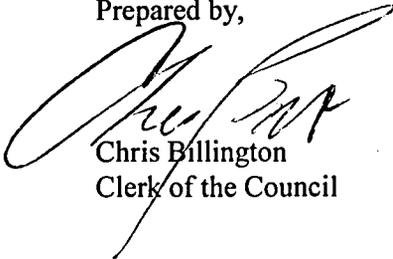
Councilor Park thanked the council, the executive and the auditor for the recent retreat. He felt it was an extremely good session and gave them an opportunity to interact with each other in a positive worthwhile manner. He felt a lot of positive things would come of it.

Councilor Atherton commented on the MPAC committee and the value of their outreach. For example, he had spoken to a fairly large group of realtors in Clackamas County that day who were very misinformed about Metro and their role in regional planning. He felt the MPAC effort to try to facilitate more councilors and staff going out into the community to communicate face to face with people was breaking through some of the misconceptions people had.

13. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Monroe adjourned the meeting at 4:07 p.m.

Prepared by,



Chris Billington
Clerk of the Council

Document Number	Document Date	Document Title	TO/FROM	RES/ORD
052799c-01	May 20/21, 1999	Pesticide Use Reporting	TO: Rod Park FROM: State Department of Agriculture	Resolution No. 99-2794A
052799c-02	2/23/99	Media concerning Zoo fee increase	TO: Metro Council FROM: Beth Anne Steele	Ordinance NO. 99-804

Ordinance No. 99-805, For the Purpose of Amending Metro Code Chapter 5.02 to Extend the Sunset Date for the Regional System Fee Credit Program to June 30, 2000, and Declaring an Emergency.

Second Reading

Metro Council Meeting
Thursday, June 3, 1999
Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING	)	ORDINANCE NO. 99-805
METRO CODE CHAPTER 5.02 TO)	
EXTEND THE SUNSET DATE FOR	)	Introduced by Mike Burton,
THE REGIONAL SYSTEM FEE CREDIT	)	Executive Officer
PROGRAM TO JUNE 30, 2000, AND)	
DECLARING AN EMERGENCY.)	

WHEREAS, Metro Ordinance No. 98-720A established the Regional System Fee Credit Program to help support material recovery through a performance and incentive-based system; and

WHEREAS, Preliminary analysis of the Regional System Fee Credit program indicates the program is meeting the program objective of supporting material recovery in the Metro Region; and

WHEREAS, The Regional Environmental Management Department will conduct a full evaluation of the Regional System Fee Credit Program's effectiveness in conjunction with its review of additional Metro solid waste rate reductions; and

WHEREAS, the results of this program evaluation and rate review will not be available until after the beginning of Fiscal Year 1999-2000; and

WHEREAS, the Regional System Fee Credit program is scheduled to expire on June 30, 1999, an emergency is declared to exist; and

WHEREAS, The ordinance was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

SECTION 1. Metro Code Section 5.02.047 is amended to read:

5.02.047 Regional System Fee Credit

(a) A solid waste facility which is certified, licensed or franchised by Metro pursuant to Metro Code Chapter 5.01 and which attains a Facility Retrieval Rate of 10 percent or greater shall be allowed a credit against the Regional System Fee otherwise due each month under Section 5.02.045 for disposal of Processing Residuals from the facility. The Facility Retrieval Rate and the Recovery Rate shall be calculated for each six-month period before the month in which the credit is claimed. The amount of such credit shall be in accordance with and no greater than as provided on the following table:

System Fee Credit Schedule

Recovery Rate		System Fee Credit of no more than
From Above	Up To & Including	
0%	20%	0.00
20%	25%	1.00
25%	30%	3.00
30%	35%	6.46
35%	40%	8.00
40%	45%	9.82
45%	100%	12.00

(b) The Executive Officer may establish additional administrative procedures regarding the Regional System Fee Credits, including, but not limited to establishing eligibility requirements for such credits and establishing incremental System Fee Credits associated with Recovery Rates which fall between the ranges set forth in paragraph (a) of this section.

(c) The provisions of this section are repealed June 30, ~~1999~~2000.

SECTION 2. This Ordinance being necessary for the public health, safety, and welfare of the Metro area, an emergency is hereby declared to exist. This ordinance shall take effect on July 1, 1999.

ADOPTED by the Metro Council this _____ day of _____, 1999.

Rod Monroe, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

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REGIONAL ENVIRONMENTAL MANAGEMENT COMMITTEE REPORT

CONSIDERATION OF ORDINANCE NO. 99-805, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.02 TO EXTEND THE SUNSET DATE FOR THE REGIONAL SYSTEM FEE CREDIT PROGRAM TO JUNE 30, 2000 AND DECLARING AN EMERGENCY

Date: May 19, 1999

Presented by: Councilor Park

Committee Recommendation: At its May 19 meeting, the Committee considered Ordinance No. 99-805 and voted 2-0 to send the resolution to the Council with a do pass recommendation. Voting in favor: Councilor Park and Chair Washington. Councilor McLain was absent.

Committee Issues/Discussion: Terry Petersen, Interim REM Director, presented the staff report. He explained that the Council had established a regional system fee credit for private recycling and recovery facilities based on their recovery rates. Prior to the establishment of this program, such facilities paid a flat rate and a penalty if their recycling rate fell below a specific rate. Petersen noted that the new fee credit was designed to provide more of an incentive to increase the facility's recycling rates. Petersen indicated that the current program was adopted with a sunset date of June 30, 1999. Staff is proposing to push back the sunset date to June 30, 2000 to allow staff to better assess the effect of the program.

Petersen provided data on the current status of the program. He noted that the program was budgeted for \$900,000 for the current fiscal year. To date, a total of \$618,000 in credits have been allocated. Seven facilities have received credits ranging from \$17,000 to \$306,000. The recycling rates at these facilities ranges from 21% to 62%.

Chair Washington asked how the credit is provided. Petersen responded that the facilities do not receive cash from Metro, but, instead the credit is used to reduce the amount of the regional system fee owed by the facility.

Councilor Park asked for a clarification about where the funding for the credit comes from. Petersen answered that the funds come from the undesignated portion of the solid waste fund balance. This portion of the fund balance is currently \$8.4, including a reduction of \$900,000 for the fee credit portion. Petersen noted that the department is working to reduce this undesignated amount and therefore, the cost of the fee credit program is not replenished annually.

EXECUTIVE SUMMARY
ORDINANCE 99-805
REGIONAL SYSTEM FEE CREDIT PROGRAM
Sunset Date Extension

PROPOSED ACTION

Extends the Regional System Fee Credit program sunset date to June 30, 2000.

WHY NECESSARY

- In a continuing effort to encourage recycling and recovery in the Metro Region, the Regional System Fee Credit Program, a recovery-based incentive program, was adopted by the Metro Council and implemented in conjunction with the 1998 disposal rate reduction.
- The credit program was initiated as a one-year pilot project, with a June 30, 1999 sunset date.
- The requested REM FY 1999-2000 Budget proposes extension of the Regional System Fee Credit Program until June 30, 2000 in order to allow time for an evaluation of the program and analysis and implementation of recommendations resulting from the evaluation.

ISSUES/CONCERNS

- Based upon a preliminary analysis of the Regional System Fee Credit Program, REM staff concluded that the program was meeting its objective. The Budget Advisory and the subsequent Rate Review Committee recommended that a full year of experience was needed to make any assessment.
- An evaluation of the Regional System Fee Credit Program is presently underway. We expect to complete the study at the beginning of FY 1999-2000, in time to use the results in the review of Metro solid waste rates.
- The Department will bring forward recommendations on both solid waste rates and the Regional System Fee Credit Program for the Council's consideration during the first quarter of FY 1999-2000.

BUDGET/FINANCIAL IMPACTS

- The requested FY 1999-2000 Budget proposes funding the Regional System Fee Credit Program with \$900,000 from the Undesignated Fund Balance of the Solid Waste Revenue fund.
- The FY 1999-2000 Budget request reflects no proposed changes in funding amount or source for this program from the adopted FY 1998-99 Budget.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 99-805, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 5.02 TO EXTEND THE SUNSET DATE FOR THE REGIONAL SYSTEM FEE CREDIT PROGRAM TO JUNE 30, 2000, AND DECLARING AN EMERGENCY.

Date: April 16, 1999

Presented by: Terry Petersen,
Leann Linson

PROPOSED ACTION

Adopt Ordinance No. 99-805.

The Metro Executive Officer recommends adoption of Ordinance No. 99-805, extending the sunset date of the Regional System Fee Credit Program one year to June 30, 2000.

FACTUAL BACKGROUND AND ANALYSIS

In a continuing effort to encourage recycling and recovery in the Metro Region, the Regional System Fee Credit Program, a recovery-based incentive program, was adopted by the Metro Council and implemented in conjunction with the 1998 disposal rate reduction. The incentive program replaced a punitive program that charged an enforcement fee to Material Recovery Facilities (MRFs) not meeting a prescribed recovery rate. The Regional System Fee Credit Program was introduced to help MRFs to transition to the lower disposal fees, which have reduced the margin between MRF revenue and cost. The credits vary as a function of each facility's recovery rate to further encourage recovery. The higher a facility's recovery rate, the higher the Regional System Fee Credit.

The Regional System Fee Credit Program was adopted by the Metro Council and initiated as a one-year pilot project, with a June 30, 1999 sunset date. Continuation of the program is, in part, contingent on evaluation of the program and its funding source. For Fiscal Year 1998-99, the Regional System Fee Credit Program was budgeted to use \$900,000 of the Undesignated Fund Balance of Metro's Solid Waste Fund. The requested REM FY 1999-2000 budget proposes extension of the Regional System Fee Credit Program until June 30, 2000 at the current funding level of \$900,000 in order to allow time for an evaluation of the program and analysis and implementation of recommendations resulting from the evaluation.

Program Evaluation

At the time the REM FY 1999-2000 proposed budget was submitted, Department staff intended to conduct an evaluation of the Regional System Fee Credit Program within the first six months of the new fiscal year. Since then, negotiations with Waste Management, Inc. have concluded and the Council has adopted Change Order 8, which should result in substantial disposal savings. Because a portion of these savings may be allocated to further reduction of Metro's solid waste disposal rates, which could further impact the margin between MRF revenues and costs, the Department has moved the schedule for evaluation of the Regional System Fee Credit Program forward. The study is expected to be completed at the beginning of FY 1999-2000, in time to use the results in the review

of Metro solid waste rates. The Department intends to bring forward recommendations on both solid waste rates and the Regional System Fee Credit Program for the Council's consideration during the first quarter of FY 1999-00.

FISCAL IMPACT

Continuation of the Regional System Fee Credit Program through FY 1999-2000 results in no projected variance from the requested FY 1999-00 budget. The FY 1999-00 budget request proposes no changes in funding amount or source for this program from the adopted FY 1998-99 Budget. The requested FY 1999-00 budget proposes funding the Regional System Fee Credit Program with \$900,000 from the Undesignated Fund Balance of the Solid Waste Revenue fund.

EXECUTIVE OFFICER RECOMMENDATION

The Executive Officer recommends approval of Ordinance No. 99-805.

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Agenda Item Number 10.1

Resolution No. 99-2778, For the Purpose of Establishing a Bi-State Committee of the Joint Policy Advisory Committee on Transportation (JPACT) and the Southwest Washington Regional Transportation Council (RTC).

Metro Council Meeting
Thursday, June 3, 1999
Council Chamber

JOINT RESOLUTION OF
METRO AND THE
SOUTHWEST WASHINGTON REGIONAL TRANSPORTATION COUNCIL

FOR THE PURPOSE OF ESTABLISHING A	)	METRO RES. NO. 99-2778
BI-STATE COMMITTEE OF THE JOINT)	
POLICY ADVISORY COMMITTEE ON	)	SOUTHWEST WASHINGTON
TRANSPORTATION (JPACT) AND THE	)	RTC RESOLUTION NO. 05-99-11
SOUTHWEST WASHINGTON REGIONAL)	
TRANSPORTATION COUNCIL (RTC)	)	Introduced by
		Councilor Jon Kvistad,
		JPACT Chair

WHEREAS, The Joint Policy Advisory Committee on Transportation (JPACT) provides a forum at Metro for local and regional elected officials and representatives of agencies involved in transportation to resolve transportation needs affecting the Portland/Vancouver region in Oregon; and

WHEREAS, The Southwest Washington Regional Transportation Council (RTC) provides a forum in Southwest Washington for local and regional elected officials and representatives of agencies involved in transportation to resolve transportation needs affecting the Portland/Vancouver region in Washington; and

WHEREAS, Transportation issues, ranging from Interstate maintenance needs, freight rail needs, transit and finance affect the people and the economy in the entire Portland/Vancouver region; now, therefore,

BE IT RESOLVED THAT:

Metro and RTC:

1. Establish a Bi-State Transportation Committee to develop recommendations to JPACT and RTC on bi-state transportation issues; and

2. Authorize executing an Intergovernmental Agreement (as substantially reflected in Exhibit "A") specifying the roles and responsibilities of the Bi-State Transportation Committee.

ADOPTED by the Metro Council this _____ day of _____, 1999.

Ron Monroe, Metro Presiding Officer

ADOPTED by the Board of Directors of the Southwest Washington Regional Transportation Council this _____ day of _____, 1999.

Judie Stanton, RTC Chair

Approved as to Form:

Daniel B. Cooper, General Counsel

CD:lmk
99-2778.BSRES.DOC
4-15-99

Intergovernmental Agreement

Specifying the Roles and Responsibilities of a Joint JPACT and RTC Bi-State Transportation Committee

Role

The Bi-State Transportation Committee shall review all issues of bi-state significance for transportation and present recommended actions to RTC and JPACT. A list of current issues of bi-state significance that the Bi-State Transportation Committee may consider is attached.

JPACT and the RTC Board shall take no action on an issue of major bi-state significance without first referring the issue to the Bi-State Transportation Committee for their consideration and recommendation. Any member of JPACT or the RTC Board may request referral of an item to the Bi-State Transportation Committee for consultation prior to action.

Membership

JPACT and the RTC Board will nominate membership in the Bi-State Transportation Committee. Membership will be drawn from agencies serving on JPACT and the RTC Board with representation in Washington from the Washington Department of Transportation, C-TRAN, City of Vancouver, one of the smaller cities in Clark County, Clark County and the Port of Vancouver. In Oregon, membership will be from the Oregon Department of Transportation, Tri-Met, one of the counties of the tri-county region, City of Portland, Metro and the Port of Portland. Each agency shall select their member for the Bi-State Transportation Committee and shall also identify an alternate member.

The Bi-State Transportation Committee may create working groups on a topical basis that involve other elected officials and business or community representatives as needed.

Membership will be valid as long as the member is a member of JPACT and the RTC Board or appointed by JPACT or the RTC Board.

Chair and Vice Chair

The Bi-State Transportation Committee shall elect its Chair and Vice-Chair. The Chair and Vice-Chair shall not be representatives of the same state.

Voting

Each member will have one vote. A simple majority vote is needed to pass an action item. A quorum is needed for a vote to be valid.

Quorum

A quorum is defined as three members from each state for a total of six.

Reporting

The Bi-State Transportation Committee shall report to JPACT and the RTC Board semi-annually to alert the full committees on issues of bi-state significance and the schedule for upcoming action items.

The Bi-State Transportation Committee shall submit an annual report to JPACT and the RTC Board that highlights the committee's major accomplishments and progress over the last year. The report will be distributed to JPACT and the RTC Board one year after the date of their first meeting and annually each subsequent year.

Minutes of each meeting shall be taken and distributed for approval at the subsequent Bi-State Transportation Committee meetings.

Amendment

Any amendment to this agreement shall require the approval of JPACT, the Metro Council and RTC Board.

Termination

Termination of this agreement and the Bi-State Transportation Committee will require written notice sixty (60) days prior to the termination date proposed by JPACT or the RTC Board.

Meeting Location

Meetings will alternate between sites in Oregon and Washington.

Public Notice

The public shall be notified of the Bi-State Transportation Committee meetings consistent with other public meeting notices required by Metro or RTC.

Administrative Support

Metro and RTC shall share in the costs for administrative support and staffing to the Bi-State Transportation Committee.

Budget/Expenses

Expenses for conducting Bi-State Transportation Committee meetings shall be equally shared between Metro and the RTC.

Examples of Issues of Bi-State Significance for Transportation

For Delegation by JPACT and RTC
For Consideration by the Bi-State Transportation Committee

I-5 Trade Corridor Study

HOV Policies

I-5 HOV Pilot Project Results

I-5 Bridge Painting and Maintenance Plans

I-205 Corridor

Bi-State Bus Transit Services

Freight Rail Capacity Issues and Possible Solutions

Commuter Rail and Light Rail Transit

Population and Employment Growth Trends and Implications for Transportation Needs

Policies Affecting Transportation Demand

Funding Mechanisms for Bi-State Projects

Columbia River Channel Dredging



1351 Officers' Row
Vancouver, Washington
98661-3856

360 / 397-6067
360 / 696-1847 fax
<http://www.rtc.wa.gov/>

Member Jurisdictions

- Clark County
- Skamania County
- Klickitat County
- City of Vancouver
- City of Camas
- City of Washougal
- City of Battle Ground
- City of Ridgefield
- City of La Center
- Town of Yacolt
- City of Stevenson
- City of White Salmon
- C-TRAN
- Washington DOT
- Port of Vancouver
- Port of Camas
- Washougal
- Port of Ridgefield
- Port of Skamania County
- Port of Klickitat
- Metro
- Oregon DOT

May 5, 1999

Rod Monroe
Presiding Officer
Metro
600 NE Grand Avenue
Portland, Oregon 97232-2736

Dear Presiding Officer Monroe:

On behalf of the Southwest Washington Regional Transportation Council (RTC) Board of Directors, I have attached signed original copies of the Joint RTC and Metro Resolution creating the Bi-State Transportation Committee and the corresponding Intergovernmental Agreement. These were passed yesterday by the RTC Board of Directors and are being forwarded to you for consideration by JPACT and the Metro Council. As you know the RTC Board made two small modifications to the Intergovernmental Agreement. The first was to remove a direct reference to the list of bi-state issues and the second redefined the quorum to be eight with a minimum of four members from each state.

If you have any questions, please give me a call. We thank you for your participation on the RTC Board and for your leadership on this issue.

Sincerely,

Dean Lookingbill
RTC Transportation Director

Attachments

cc: Andy Cotugno, Metro Transportation Director

TRANSPORTATION PLANNING COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 99-2778, FOR THE PURPOSE OF ESTABLISHING A BI-STATE COMMITTEE OF THE JOINT POLICY ADVISORY COMMITTEE ON TRANSPORTATION (JPACT) AND THE SOUTHWEST WASHINGTON REGIONAL TRANSPORTATION COUNCIL (RTC)

Date: May 19, 1999

Presented by: Councilor Bragdon

Committee Recommendation: At its May 18 meeting, the Committee considered Resolution No. 99-2778 and voted unanimously to send the resolution to the Council with a do pass recommendation. Voting in favor: Councilors Atherton and Bragdon and Chair Kvistad.

Committee Issues/Discussion: Andy Cotugno, Transportation Planning Director, presented the staff report. He explained that the purpose of the resolution was to establish a Bi-State subcommittee of JPACT and the southwest Washington Regional Transportation Council (RTC) that would provide a formal, integrated process for reviewing and making recommendations related to transportation issues that effect both Oregon and Washington. The RTC initiated the establishment of the subcommittee, which would be accomplished through adoption of the intergovernmental agreement attached as an exhibit to the resolution. Cotugno noted that such a subcommittee would add another level of review for these issues, but that the subcommittee would insure a greater level of cooperation between the two states and provide for more in-depth examination of bi-state issues.

Cotugno noted that JPACT made two changes to the proposed IGA. First, it clarified that, while any JPACT or RTC member could request the referral of an issue to the subcommittee, an affirmative vote by either the RTC or JPACT would be required to actually refer a matter to the subcommittee. Second, at the request of the city of Gresham, an additional member was added to the subcommittee that would represent a smaller city other than Portland from Multnomah County.

Committee members addressed several issues related to the proposed resolution. Councilor Atherton questioned whether the proposed IGA required the subcommittee to vote on issues that were referred to it and suggested that the IGA be amended to make voting optional. The contended that such an approach would more clearly reflect the advisory status of the subcommittee. Both Mr. Cotugno and Chair Kvistad responded that there was clearly no delegation of authority to the subcommittee and that it was clear that its recommendations would only be advisory. Cotugno noted that JPACT members were interesting in proceeding with the immediate creation of the subcommittee and that any substantive amendment by the committee would require the resolution to be reconsidered by JPACT. The committee agreed that it would send a letter to the subcommittee indicating that voting on issues before it should be considered optional.

Chair Kvistad asked about the appointment process for committee members. Cotugno responded that the agencies or jurisdictions named in the IGA would be free to appoint their own members, but that it was generally assumed that the appointees would be the same individuals that represent these entities on JPACT or the RTC. Metro would have to establish a process for appointing its own representative. Chair Kvistad noted that the Metro appointee should be one of the Council representatives on JPACT.

Chair Kvistad expressed some concern that the subcommittee could act autonomously from both the RTC and JPACT with its own political agenda. Cotugno responded that the subcommittee would be required to report to JPACT and the RTC every six months.

Councilor Bragdon noted that the role of the federal government related to interstate transportation issues was not clearly defined and that intercity high-speed rail had not been listed among the issues that could be addressed by the subcommittee. Cotugno responded that the IGA was designed to get the subcommittee up and running and that he anticipated that additional refinements would be needed. He suggested that a three-month deadline be set for the development of any necessary refinements.

The committee adopted a minor change in the IGA in the second paragraph under membership by adding the phrase "and/or" because some organizations for represented on both JPACT and the RTC.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 99-2778 FOR THE PURPOSE OF ESTABLISHING A BI-STATE COMMITTEE OF THE JOINT POLICY ADVISORY COMMITTEE ON TRANSPORTATION (JPACT) AND THE SOUTHWEST WASHINGTON REGIONAL TRANSPORTATION COUNCIL (RTC)

Date: April 30, 1999

Presented by: Andrew C. Cotugno

PROPOSED ACTION

Approval of this resolution would establish a Bi-State Transportation Committee of the Joint Policy Advisory Committee on Transportation (JPACT) and the Southwest Washington Regional Transportation Council (RTC) to develop recommendations on bi-state transportation issues for JPACT and RTC consideration. If approval of this resolution occurs, JPACT and the RTC Board would not take action on an issue of major bi-state significance without first referring the issue to the Bi-State Transportation Committee for their consideration and recommendation.

BACKGROUND AND ANALYSIS

The Portland/Vancouver region faces numerous decisions on transportation investments and policies that affect the region's economy and land use and growth management plans. Examples of these transportation and investment policies include developing long-term plans for the I-5 corridor, high occupancy vehicle policies, the I-5 Bridge Painting and Maintenance project, I-205 corridor plans, bi-state transit services, freight rail capacity issues and possible solutions, transportation demand management programs and funding mechanisms.

JPACT provides a forum at Metro for local and regional elected officials and representatives of agencies involved in transportation to resolve transportation needs affecting the Portland/Vancouver region in Oregon. The RTC provides a similar forum for resolving transportation needs affecting the Portland/Vancouver region in Washington. While both include representation from the other state, neither forum include the full bi-state representation in one forum necessary to facilitate a full discussion of transportation needs affecting the Portland/Vancouver region and to develop the commitment necessary to resolve them.

JPACT discussed the concept of a joint bi-state transportation committee informally at a meeting in November. The discussion at that meeting reflected interest in exploring the idea of a bi-state subcommittee.

The RTC Board discussed the bi-state transportation committee at their April 6 meeting. The discussion reflected their strong support for a bi-state transportation committee. Prior to approving the resolution and intergovernmental agreement, they requested that an additional member be added to the committee to represent smaller jurisdictions in southwest Washington, making the total membership proposed for the Portland/Vancouver region in Oregon equal to that proposed for the Portland/Vancouver region in Washington. The intergovernmental agreement, attached to the resolution, reflects this membership change request.

Agenda Item Number 11.1

Resolution No. 99-2777, For the Purpose of Amending the Contract Between Metro and Northwest Ecological Research Institute (Contract No. 920892) for Western Painted Turtle Monitoring at Smith and Bybee Lakes Wildlife Area.

Contract Review Board

Metro Council Meeting
Thursday, June 3, 1999
Council Chamber

BEFORE THE CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AMENDING THE	)	RESOLUTION NO. 99-2777
CONTRACT BETWEEN METRO AND)	
NORTHWEST ECOLOGICAL RESEARCH)	
INSTITUTE (CONTRACT NO. 920892) FOR	)	Introduced by
WESTERN PAINTED TURTLE MONITORING)	
AT SMITH AND BYBEE LAKES WILDLIFE	)	Mike Burton,
AREA.	)	Executive Officer

WHEREAS, Metro executed Contract No. 920892 with Northwest Ecological Institute (NERI) in the amount of \$33,000 to begin the Western Painted Turtle Monitoring Plan at Smith and Bybee Lakes Wildlife Area,

WHEREAS, western painted turtles are listed "critically sensitive" by the Oregon Department of Fish and Wildlife; and

WHEREAS, one of the largest known populations of western painted turtles in the Lower Columbia River basin resides in the Smith and Bybee Lakes Wildlife Area; and

WHEREAS, continued implementation of the monitoring plan is necessary for protection and enhancement of the turtle; and

WHEREAS, financial resources are budgeted for fiscal year 1999-2000 and will be available for future years, subject to Council appropriation; and

WHEREAS, Metro Regional Parks and Greenspaces has established that Northwest Ecological Research Institute has performed the work as specified and satisfactorily within the terms of the contract and provides these services in a cost effective and efficient manner; and

WHEREAS, per Metro Code 2.04.046 (b) such an amendment requires Metro Council approval; and

WHEREAS, the resolution was submitted to the Executive Officer for consideration and was forwarded to the Council for approval; now therefore

BE IT RESOLVED,

That the Metro Contract Review Board authorizes the execution of Change Order #1 to the Northwest Ecological Research Institute contract no. 920892 for the Western Painted Turtle

Monitoring Plan, attached as Exhibit A, which increases the contract amount by \$115,000 and extends the contract through the December 31, 2003, subject to Council appropriation via the annual budget process.

ADOPTED by the Metro Contract Review Board this _____ day of

_____, 1999.

Rod Monroe, Presiding Officer

Approved as to form:

Daniel B. Cooper
General Counsel

METRO OPERATIONS COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 99-2777, FOR THE PURPOSE OF AMENDING THE CONTRACT BETWEEN METRO AND NORTHWEST ECOLOGICAL RESEARCH INSTITUTE (CONTRACT NO. 920892) FOR WESTERN PAINTED TURTLE MONITORING AT SMITH AND BYBEE LAKES WILDLIFE AREA.

Date: May 25, 1999

Presented by: Councilor Kvistad

Committee Action: At its May 19, 1999 meeting, the Metro Operations Committee voted 2-0 to recommend Council adoption of Resolution No. 99-2777. Voting in favor: Councilors Atherton and Washington.

Council Issues/Discussion: Charlie Ciecko, Director of the Parks and Greenspaces Department, made the staff presentation. Resolution 99-2777 authorizes a four-year contract extension with Northwest Ecological Institute (NERI), to monitor painted turtles at Smith & Bybee Lake. The western painted turtle is listed as "critically sensitive" by the Oregon Department of Fish & Wildlife. Smith & Bybee lakes are home to one of the largest known populations of western painted turtles in the lower Columbia River system. A five-year study to address habitat, demographics and other issues related to the turtle was instigated at the request of the Smith & Bybee Lake Management Committee and Wildlife Area manager.

NERI was chosen for the initial phase of this contract via a competitive bidding process. The total amount for the project is estimated to be \$148,000, over the five years; with \$118,000 coming from the Smith & Bybee Lakes Trust Fund and \$30,000 from the Port of Portland. \$40,000 is budgeted for fiscal years '99-'00.

Jim Morgan, biologist and regional planner with the department gave additional technical information. Responding to questions from councilor Atherton, he said the study would help establish adequate buffers from development, in those areas not developed around the lakes, that would be sufficient for the turtle's well being. He also expressed confidence in the contractor to carry out the study in a scientifically manner with the least disruption to the turtles possible.

Staff Report

CONSIDERATION OF RESOLUTION NO. 99-2777 FOR THE PURPOSE OF AMENDING THE CONTRACT BETWEEN METRO AND NORTHWEST ECOLOGICAL RESEARCH INSTITUTE (CONTRACT NO. 920892) FOR WESTERN PAINTED TURTLE MONITORING AT SMITH AND BYBEE LAKES WILDLIFE AREA

Date: April 16, 1999

Presented by:

Charles Ciecko
Dan Kromer

PROPOSED ACTION

Resolution No. 99-2777 requests amendment of the existing contract between Metro and Northwest Ecological Research Institute (Contract No. 920892) for continued monitoring and data analysis of western painted turtles at Smith and Bybee Lakes Wildlife Area. Approving this resolution would increase the contract by \$115,000 and the length of the contract until December 31, 2003 to maintain continuity in monitoring protocol.

FACTUAL BACKGROUND

There are only two native turtle species in Oregon, the western painted turtle and the western pond turtle. Smith and Bybee Lakes Wildlife Area is home to one of the largest known populations of western painted turtles in the Lower Columbia River system. The western painted turtle is listed "critically sensitive" by the Oregon Department of Fish and Wildlife. With the increase in development in the Rivergate Industrial area and the increase in passive recreational use at the wildlife area, the Smith and Bybee Lakes Management Committee and Wildlife Area Manager felt it was necessary to undertake a monitoring program to assess the turtle population in the area. A five-year monitoring program was established to determine the demographics, nesting sites and habitat uses of the turtle. The information generated from the program will be used to establish management actions at the wildlife area to protect the turtles and their habitat.

In September 1998, Metro entered into a ten month personal services contract with the Northwest Ecological Research Institute (NERI) for western painted turtle monitoring at Smith and Bybee Lakes Wildlife Area. The contract covers a portion of the first phase of the five-year monitoring program. The contract terminates at the end of FY 1998-'99. At that time, the contractor will be in the middle of the first field season. To complete the field season it is necessary to extend the contract. Since the monitoring program calls for five years worth of data, it would be appropriate at this time to extend the contract until December 31, 2003.

Initial Competitive Contracting Process

In August 1998 Metro advertised the request for proposals (RFP) for implementing the western painted turtle survey and monitoring plan in the Daily Journal of Commerce, posted it on the web site and mailed copies to various firms and individuals. Respondents were given two weeks to reply. Metro received two proposals. Three people reviewed the proposals and rated each on the criteria listed in the RFP. NERI was awarded the contract based on experience, overall knowledge of turtles and field personnel.

Specialized Expertise Needed to Complete the Work

NERI is an Oregon non-profit 503(C) corporation whose purpose is to further the knowledge of Pacific Northwest natural history through research, training and dissemination of information. NERI is dedicated to furthering the understanding and conservation of wildlife and natural systems. They have extensive experience in collection of data on native turtle species in Oregon and Washington and at Smith and Bybee Lakes Wildlife Area. They bring these specialized skills to the project.

- Extensive knowledge of western painted turtles.
- Research experience at Smith and Bybee Lakes Wildlife Area.
- Experienced field personnel that are familiar with trapping and handling turtles.
- Ability to train, coordinate and work with numerous volunteers.

As of the end of February 1999, NERI has contributed \$3,500 of pro bono work or about 140 hours to the monitoring contract.

Technical Complexity of the Project

The field season for turtle monitoring starts at the beginning of March and runs through the end of October. During the non-field months, the consultants will be analyzing data and preparing for the next field season. It requires many organizational and technical skills to successfully implement the monitoring plan in such a large area. It also requires a working knowledge of the area, which will be gained through the first field season.

With such a large area and limited amounts of dollars, NERI and Metro are using a large cadre of volunteers to assist with the data collection. To date, one hundred people have volunteered. NERI and Metro have oriented and trained the volunteers about the project and the site. The volunteers will be working with two NERI field supervisors.

Because of the need for consistency and the technical complexity of monitoring turtles throughout the wildlife area, it is important to ensure that NERI personnel will continue throughout the entire project. Also, the initial effort and cost of training volunteers will pay off over the long run, as the volunteers become familiar with the monitoring protocols and the field supervisors. They will be able to work with less supervision. The continuity with one contractor will ensure the monitoring protocol is the same from year to year.

Savings to Metro

Extending the contract to include the entire monitoring timeframe will provide a financial saving for Metro and Smith and Bybee Lakes Wildlife Area budgets. By the end of the first field season the majority of the start-up work will be completed. This includes training volunteers, creating data forms and databases, becoming familiar with the site, understanding Metro's requirements and procedures and having a handle on the complexity of the monitoring. If a new contractor were brought in, more Metro personnel time would need to be spent bringing the contractor up to speed on the project. Also, the contractor's time needed to become familiar with the area, protocol and data analysis would be an added expense. Often, a different contractor would want to make changes to the protocol that may also be costly.

As mentioned before, NERI has contributed numerous pro bono hours to the project. The hourly rate for the members of their team range from \$25 to \$50. Similar work from a private consulting firm would range from \$50 to \$80 hour.

BUDGET IMPACT

The total cost of the project is estimated to be \$148,000. \$118,000 is being funded from the Smith and Bybee Lakes Wildlife Area budget subject to Council appropriation via the annual budget process. Metro has entered into an Intergovernmental Agreement with the Port of Portland for the additional \$30,000 over 5 years towards equipment and personnel costs. \$40,000 is included in the FY 1999-'00 budget for the wildlife area under Contracted Professional Services. The additional fees of \$75,000, which includes \$15,000 contribution from the Port of Portland, will be included in future budgets for Contracted Professional Services in the Smith and Bybee Lakes Wildlife Area subject to approval by the Council.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 99-2777.

Scope of Work
Amendment #1, Contract #920892
Western Painted Turtle Survey
Smith and Bybee Lakes Wildlife Area

Duration

The contract is extended to Dec. 31, 2003, allowing for five field seasons of work, time to analysis the date and complete a final report.

Scope of Work

The Scope of Work will be accomplished according to the timelines set forth in this amendment. Schedule changes may be necessary as the project proceeds and will require approval by the Metro project manager.

Description of Work for FY 1999-00

1. The contractor will complete the fieldwork on the demographic study that began in March of 1999.
2. A report summarizing the first year's findings will be completed by December 31, 1999.
3. Protocol for the next field season will be developed and approved by the Wildlife Area Manager. This may include conducting further demographic studies in specific areas, nesting and basking surveys or other components identified in the monitoring plan. The detailed work plan and schedule will be finalized and approved by the Wildlife Area Manager by March 1, 2000.
4. Additional orientation and training for volunteers if necessary.

Description of Work for Fiscal Years 2000-20003

1. The contractor will complete the fieldwork for the agreed upon monitoring protocols for the specific calendar year. A report summarizing the year's findings and incorporating the previous years will be completed by December 31 of each year.
2. The contractor will review the monitoring plan with the Wildlife Area Manager. They will decide on which components of the plan will be implemented during the next field season. By March 1, the contractor will develop a detailed work plan and fieldwork schedule for approval by the Wildlife Area Manager.
3. Additional orientation and training for volunteers if necessary.

Payment

For each fiscal year the Wildlife Area Manager will establish a budget for the turtle monitoring project. The scope of work determined by the contractor and the Wildlife Area Manager will be based on the established budget. The Port of Portland is contributing \$30,000 to the project, \$10,000 the first year and \$5,000 for the next four years. It is anticipated that the budget from July 1, 1999 through December 31, 2003 will not exceed \$115,000.

FY 1999-00

\$40,000 is budgeted for the turtle monitoring project in Contracted Professional Services, this includes \$5,000 from the Port of Portland. The money will be used for professional services, materials and supplies.

Fys 2000-2003

\$75,000 is anticipated for the continuation of the project. The money will be used for professional services, materials and supplies. \$15,000 will be from the Port of Portland and the additional \$60,000 from the Smith and Bybee Lakes Wildlife Area budget subject to approval by Metro Council.

Agenda Item Number 11.2

Resolution No. 99-2788, For the Purpose of Authorizing an Exemption to Competitive Bidding Procedures Pursuant to Metro Code Chapter 2.04.054(c), and Authorizing the Executive Officer to Execute a Multi-Year Contract with the Oregon Historical Society.

Contract Review Board

Metro Council Meeting
Thursday, June 3, 1999
Council Chamber

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF AUTHORIZING AN)	RESOLUTION NO. 99 -2788
EXEMPTION TO COMPETITIVE BIDDING)	
PROCEDURES PURSUANT TO METRO)	
CODE CHAPTER 2.04.054 (c), AND)	Introduced by Mike Burton,
AUTHORIZING THE EXECUTIVE OFFICER)	Executive Officer
TO EXECUTE A MULTI-YEAR CONTRACT)	
WITH THE OREGON HISTORICAL SOCIETY.)	

WHEREAS, Metro entered into a five year contract (Contract No. 904226) in 1994 with the Oregon Historical Society (OHS) to provide educational interpretive services of the Bybee House, Barn Museum and historical objects at Howell Territorial Park; and

WHEREAS, OHS is uniquely qualified to perform cultural and historic interpretive services relating to the Bybee House, Barn Museum and related orchards, gardens and historical equipment at Howell Territorial Park; and

WHEREAS, for several years OHS has demonstrated an ability to provide these services for Howell Territorial Park cost effectively under prior contracts with Metro and previously Multnomah County; and

WHEREAS, Metro wishes to execute another five year contract renewable annually starting July 1, 1999 and shall remain in effect until and including June 30, 2004; now, therefore,

BE IT RESOLVED,

1. The Contract Review Board finds that exemption from competitive bidding requirements will not encourage favoritism in the award of public contracts or substantially diminish competition for public contracts let by Metro.
2. The Contract Review Board finds that award of this contract will result in substantial cost savings to Metro in provision of subject services at Howell Territorial Park.
3. The Contract Review Board exempts the contract with Oregon Historical Society from the competitive bidding requirements pursuant to Metro Code Section 2.04.054 (c).
4. The Contract Review Board authorizes the Executive Officer to execute a Multi-year contract (Exhibit A) with the Oregon Historical Society substantially in compliance with the contract form and contract terms reviewed today.

ADOPTED by the Metro Contract Review Board, this ____ day of _____, 1999.

Rod Monroe, Presiding Officer

Approved as to form:

Daniel B. Cooper
General Counsel

EXHIBIT A

Project: OHS Management Services
Contract No. _____

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is between Metro, a metropolitan service district organized under the laws of the State of Oregon and the 1992 Metro Charter, located at 600 NE Grand Avenue, Portland, OR 97232-2736, and the **Oregon Historical Society** referred to herein as "Contractor," located at **1200 SW Park Avenue, Portland, Oregon 97205**.

In exchange for the promises and other consideration set forth below, the parties agree as follows:

1. Duration. This personal services agreement shall be effective **July 1, 1999** and shall remain in effect until and including **June 30, 2000 with the option to renew annually thereafter for a period not to exceed four additional years (through June 30, 2004)** unless terminated or extended as provided in this Agreement.
2. Scope of Work. Contractor shall provide all services and materials specified in the attached "Exhibit A — Scope of Work," which is incorporated into this Agreement by reference. All services and materials shall be provided by Contractor in accordance with the Scope of Work, in a competent and professional manner. To the extent that the Scope of Work contains additional contract provisions or waives any provision in the body of this Agreement, the Scope of Work shall control.
3. Payment. Metro shall pay Contractor for services performed and materials delivered in the amount(s), manner and at the time(s) specified in the Scope of Work for a maximum sum not to exceed **Twenty Thousand Six Hundred Dollars (\$20,600.00)**.
4. Insurance.
 - a. Contractor shall purchase and maintain at the Contractor's expense, the following types of insurance, covering the Contractor, its employees, and agents:
 - (1) Broad form comprehensive general liability insurance covering bodily injury and property damage, with automatic coverage for premises, operations, and product liability. The policy must be endorsed with contractual liability coverage; and
 - (2) Automobile bodily injury and property damage liability insurance.

b. Insurance coverage shall be a minimum of \$500,000 per occurrence. If coverage is written with an annual aggregate limit, the aggregate limit shall not be less than \$1,000,000.

c. Metro, its elected officials, departments, employees, and agents shall be named as ADDITIONAL INSUREDS. Notice of any material change or policy cancellation shall be provided to Metro 30 days prior to the change or cancellation.

d. Contractor, its subcontractors, if any, and all employers working under this Agreement that are subject employers under the Oregon Workers' Compensation Law shall comply with ORS 656.017, which requires them to provide Workers' Compensation coverage for all their subject workers. Contractor shall provide Metro with certification of Workers' Compensation insurance including employer's liability. If Contractor has no employees and will perform the work without the assistance of others, a certificate to that effect may be attached, as Exhibit B, in lieu of the certificate showing current Workers' Compensation.

e. If required by the Scope of Work, Contractor shall maintain for the duration of this Agreement professional liability insurance covering personal injury and property damage arising from errors, omissions, or malpractice. Coverage shall be in the minimum amount of \$500,000. Contractor shall provide to Metro a certificate of this insurance, and 30 days' advance notice of material change or cancellation.

f. Contractor shall provide Metro with a certificate of insurance complying with this article and naming Metro as an additional insured within fifteen (15) days of execution of this Contract or twenty-four (24) hours before services under this Contract commence, whichever date is earlier.

5. Indemnification. Contractor shall indemnify and hold Metro, its agents, employees and elected officials harmless from any and all claims, demands, damages, actions, losses and expenses, including attorney's fees, arising out of or in any way connected with its performance of this Agreement, or with any patent infringement or copyright claims arising out of the use of Contractor's designs or other materials by Metro and for any claims or disputes involving subcontractors.

6. Maintenance of Records. Contractor shall maintain all of its records relating to the Scope of Work on a generally recognized accounting basis and allow Metro the opportunity to inspect and/or copy such records at a convenient place during normal business hours. All required records shall be maintained by Contractor for three years after Metro makes final payment and all other pending matters are closed.

7. Ownership of Documents. All documents of any nature including, but not limited to, reports, drawings, works of art and photographs, produced by Contractor pursuant to this Agreement are the property of Metro, and it is agreed by the parties that such documents are works made for hire. Contractor hereby conveys, transfers, and grants to Metro all rights of reproduction and the copyright to all such documents.

8. Project Information. Contractor shall share all project information and fully cooperate with Metro, informing Metro of all aspects of the project including actual or potential problems or defects. Contractor shall abstain from releasing any information or project news without the prior and specific written approval of Metro.

9. Independent Contractor Status. Contractor shall be an independent contractor for all purposes and shall be entitled only to the compensation provided for in this Agreement. Under no circumstances shall Contractor be considered an employee of Metro. Contractor shall provide all tools or equipment necessary to carry out this Agreement, and shall exercise complete control in achieving the results specified in the Scope of Work. Contractor is solely responsible for its performance under this Agreement and the quality of its work; for obtaining and maintaining all licenses and certifications necessary to carry out this Agreement; for payment of any fees, taxes, royalties, or other expenses necessary to complete the work except as otherwise specified in the Scope of Work; and for meeting all other requirements of law in carrying out this Agreement. Contractor shall identify and certify tax status and identification number through execution of IRS form W-9 prior to submitting any request for payment to Metro.

10. Right to Withhold Payments. Metro shall have the right to withhold from payments due to Contractor such sums as necessary, in Metro's sole opinion, to protect Metro against any loss, damage, or claim which may result from Contractor's performance or failure to perform under this Agreement or the failure of Contractor to make proper payment to any suppliers or subcontractors.

11. State and Federal Law Constraints. Both parties shall comply with the public contracting provisions of ORS chapter 279, and the recycling provisions of ORS 279.545 - 279.650, to the extent those provisions apply to this Agreement. All such provisions required to be included in this Agreement are incorporated herein by reference. Contractor shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations including those of the Americans with Disabilities Act.

12. Situs. The situs of this Agreement is Portland, Oregon. Any litigation over this agreement shall be governed by the laws of the State of Oregon and shall be conducted in the Circuit Court of the state of Oregon for Multnomah County, or, if jurisdiction is proper, in the U.S. District Court for the District of Oregon.

13. Assignment. This Agreement is binding on each party, its successors, assigns, and legal representatives and may not, under any circumstance, be assigned or transferred by either party.

14. Termination. This Agreement may be terminated by mutual consent of the parties. In addition, Metro may terminate this Agreement by giving Contractor seven days prior written notice of intent to terminate, without waiving any claims or remedies it may have against Contractor. Termination shall not excuse payment for expenses properly incurred prior to notice of termination, but neither party shall be liable for indirect or consequential damages arising from termination under this section.

15. No Waiver of Claims. The failure to enforce any provision of this Agreement shall not constitute a waiver by Metro of that or any other provision.

16. Modification. Notwithstanding and succeeding any and all prior agreement(s) or practice(s), this Agreement constitutes the entire Agreement between the parties, and may only be expressly modified in writing(s), signed by both parties.

Oregon Historical Society

METRO

By _____

By _____

Title _____

Title _____

Date _____

Date _____

SCOPE OF WORK

1. DESCRIPTION OF SERVICES.

OHS Will provide the following services:

A. Provide for certain aspects of operations and maintenance of the Bybee House and Barn Museum at Howell Territorial Park, as well as the accurate educational interpretation of the house, farm shed, and historical objects associated with the site except as noted in 1. B. below.

- 1) The OHS Project Manager shall be the Curator/Bybee-Howell Site Manager, or other such person as shall be designated in writing by OHS. The OHS Project Manager is authorized to carry out all OHS actions referred to herein.
- 2) Provide maintenance functions at the same level as agreed to in Metro Personal Services Agreement Contract No. 904226, dated April 25, 1995. This includes paying typical utility costs including telephone, garbage (for special OHS events, i.e. "Wintering-In") and electricity.
- 3) Interpretive staff will be on site from noon to 5 PM every Saturday and Sunday from June 5 to September 6, 1999, up to and including Labor Day.
- 4) OHS may contract for services and utilize volunteers to assist in execution of the responsibilities agreed to in this contract, provided proof of adequate insurance addressing workers compensation and professional liability for such contractors and volunteers is submitted to and approved by Metro.

B. Metro will provide the following services:

- 1) The Metro Project Manager shall be the Regional Park Supervisor in charge of Howell Territorial Park or other such person as shall be designated in writing by Metro. The Metro Project Manager is authorized to carry out all Metro actions referred to herein.

- 2) Routine grounds maintenance, except for the orchard which will be a joint project with Metro assuming lead role. The herb garden and annual planting will be the responsibility of OHS.
- 3) Administer the picnic reservation system at Howell Territorial Park.
- 4) Pay the usual monthly invoices associated with the facility's security system and garbage services (related to picnic reservations).
- 5) Administer any special use permits.
- 6) Continue the enhancement of the pasture and wetland areas.
- 7) Construction management on any improvements to the Bybee House, the park barn, or anywhere else on park grounds.
- 8) Supply park brochures for OHS, if needed.

2. PUBLICITY

Metro reserves the right to review and approve, in writing, all written materials which are intended to promote the use of Bybee House and Howell Territorial Park or special events held therein plus reprinting of existing brochure.

3. COMPENSATION

Metro shall pay Contractor \$20,600.00 per year as a fixed fee.

Upon receipt of signed contract, Contractor may invoice Metro and Metro may prepay for the full amount. All correspondence shall be submitted to this address: Metro Regional Parks and Greenspaces Department, Attention: Contractor Administrator, 600 NE Grand Avenue, Portland, Oregon 97232-2736.

METRO OPERATIONS COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 99-2788, FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO COMPETITIVE BIDDING PROCEDURES PURSUANT TO METRO CODE CHAPTER 2.04.054(C), AND AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE A MULTI-YEAR CONTRACT WITH THE OREGON HISTORICAL SOCIETY.

Date: May 25, 1999

Presented by: Councilor Atherton

Committee Action: At its May 19, 1999 meeting, the Metro Operations Committee voted 2-0 to recommend Council adoption of Resolution No. 99-2788. Voting in favor: Councilors Atherton and Washington.

Council Issues/Discussion: Resolution 99-2788 continues an historical contractual relationship between Metro and the Oregon Historical Society. The five-year contract would begin July 1, 1999. Oregon Historical Society furnishes the Bybee House and Barn Museum and provides interpretive services. The historical society is found to be uniquely qualified to provide these services, and the sole source for many of the artifacts used in the displays. The annual amount of the contract is \$20,600, with Multnomah County providing half that amount, per a prior intergovernmental agreement.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 99-2788 FOR THE PURPOSE OF AUTHORIZING AN EXEMPTION TO COMPETITIVE BIDDING PROCEDURES PURSUANT TO METRO CODE CHAPTER 2.04.054 (c), AND AUTHORIZING THE EXECUTIVE OFFICER TO EXECUTE A MULTI-YEAR CONTRACT WITH THE OREGON HISTORICAL SOCIETY.

Date: June 10, 1999

Presented by:

**Charles Ciecko
Dan Kromer**

FACTUAL BACKGROUND AND ANALYSIS

For several years, the Oregon Historical Society (OHS), under contract with Metro and previously Multnomah County (prior to park services consolidation), has provided cultural and historical interpretive services for facilities at Howell Territorial Park, including the Bybee House, Barn Museum, orchard and herb garden. It has been a past practice of Metro and OHS to enter into a multi-year contract (Contract No. 904226) with annual renewal provisions.

Metro wishes to execute another five-year contract, renewable annually, starting July 1, 1999 and shall remain in effect until and including June 30, 2004. Approval of this contract will continue the partnership with the Oregon Historical Society in managing and providing direct public services at Howell Territorial Park.

FINDINGS

Uniquely Qualified. Exemption from competitive bidding requirements for this contract will not encourage favoritism in the award of other public contracts or substantially diminish competition for other public contracts let by Metro. OHS furnishes the Bybee House and Barn Museum with period artifacts, and is uniquely qualified to interpret the cultural and historical attributes of the house and park. OHS is regarded as the sole source of many of this region's historical artifacts, some of which are used as part of their exhibits at the park.

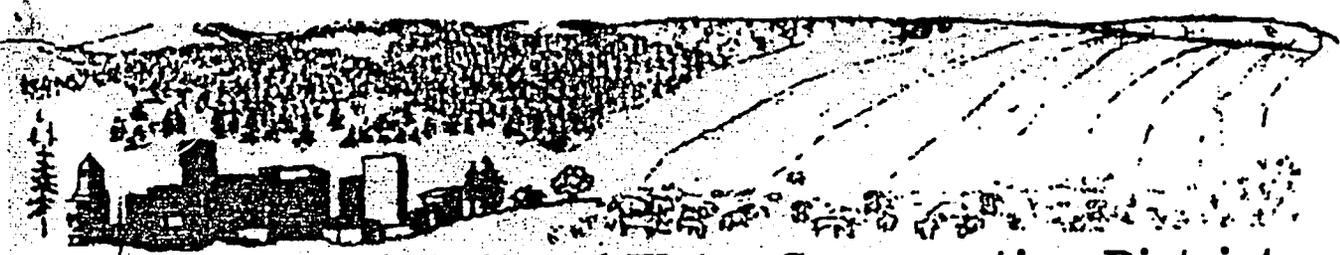
Cost Savings. Award of this contract will result in substantial cost savings to Metro in provision of subject services at Howell Territorial Park because OHS has demonstrated the ability to provide these services for Howell Territorial Park cost effectively under prior contracts with Metro and Multnomah County. Locating and purchasing/securing historically correct artifacts for exhibits would be very time consuming and cost prohibitive.

FISCAL IMPACT

Compensation in the amount of \$20,600 annually is provided by Metro to OHS on a fixed fee basis for execution of the scope of work. This amount is budgeted in the FY 99-00 Adopted Budget. 50% of the funding comes from the Multnomah County General Fund per Resolution No. 93-1877 which executed the intergovernmental agreement consolidating the Multnomah County Park Services Division and the Metro Greenspaces programs. This will also be the funding arrangement for FY 2000-04, subject to Council approval.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Resolution No. 99-2788.



West Multnomah Soil and Water Conservation District

2115 S.E. Morrison • Portland, Oregon 97214 • Phone (503) 231-2270

June 4, 1999

Metro Council
600 NE Grand Av.
Portland, Oregon

Dear Metro Councilors:

Our board appreciates your decision to add the WMSWCD to WRPAC. I am aware that, in this case, for some reason, a process was newly adopted to add members to the council. This is an important and good step, but unfortunately, this particular case brought attention to both a lack of a process as well as our board's choice.

As you might realize, we are elected just as you are, but we don't receive any salaries or rewards for our service. Those who do serve as elected volunteers on our board are important contributors to our society even if their style is not viewed as most favored. Ms. Callison has made many important public contributions of time toward conservation and environmental ethics, and is very familiar with WRPAC. That committee and WMSWCD has recommended that she serve as the board's representative. Our board is directly responsible for this action.

I have given considerable thought to this matter, and the amount of time that various board members have to offer at this moment, and Liz Callison (with me as back up) is the board's decision as publicly elected officials. This board respectfully requests that the Metro Council honor the considered decisions involved in this selection.

Sometimes elected officials find themselves together as strange bedfellows and they all grow in character for their efforts to work out sometimes large differences. After all, I cannot say that Frank Ivancie and Vera Katz were the best partners on the Portland City Council at all times. Perhaps there are similar examples on your Council. If the Metro Council is unable to confirm the seating of Ms. Callison, I request that the Council Chair contact me directly to address the impasse. This would be more appropriate than having the matter discussed at a Metro Council meeting.

Sincerely,

Brian W. Lightcap
Chair, WMSWCD

CC:
Mike Houck
Sylvan Highlands Neighborhoods Assn.
Arlington Neighborhood Assn.
Joe Evans, Lower Willamette Basin Working Group

WEST MULTNOMAH SOIL & WATER CONSERVATION DISTRICT
2115 SE MORRISON
Portland, Oregon 97214

June 4, 1999

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600 NE Grand Av.
Portland, Oregon

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Sincerely yours,

Brian W. Lightcap
Chair, WMSWCD

For the Record
Council Clerk Billington

Metro Regional Government
600 NE Grand Ave.
Portland, Oregon 97232

June 3, 1999 Council Meeting
Re Resolution No. 99-2777

Dear Metro Presiding Officer Rod Monroe and Council Members,

The Eastside Democratic Club has been aware of environmental problems at the Bybee Lake area, including Leadbetter Peninsula. At its June 1, 1999 meeting, the members of the Eastside Democratic Club unanimously voted to oppose Metro Res. No. 99-2777: the award of an additional \$115,000. contract to Northwest Ecological Institute (No. 920892) for painted turtle monitoring at Smith and Bybee Lakes.

The Eastside Democratic Club encourages and supports efforts by our North and Northeast Portland middle school students to continue their important volunteer monitoring efforts. Incidentally, several of our members suggested that—instead of giving a \$115,000. award to an outside contractor—Metro's inhouse Smith and Bybee Lakes staff should be responsible to organize volunteer monitoring efforts in our community.

Members of the Eastside Democratic Club are concerned that Metro as yet has no plan to protect, through Greenspaces acquisition, the actual habitat of the Bybee Lake "sensitive critical" population of Western Painted Turtles and other wildlife. The Western Painted Turtle species currently has a "sensitive critical" designation by the Oregon Department of Fish and Wildlife.

According to research into the current scientific literature by several of our members, Metro staff's promotion of a 150 ft. buffer to protect wildlife along Bybee Lake is totally inadequate. For example, we are aware that the Washington State Wildlife Department cites a 1,500 ft. buffer as necessary to protect the painted turtle population. Without an adequate buffer of Bybee Lake, the turtle population remains at risk. Our members felt it was false economy on Metro's part to disburse funds from their Smith and Bybee Lakes Wildlife Fund for turtle population monitoring, until Metro has at least purchased an adequate habitat buffer along Bybee Lake.

Therefore, the Eastside Democratic Club wishes to take this opportunity to applaud the work of our local middle schools in their monitoring efforts at Smith and Bybee Lakes. Moreover, we strongly urge Metro Council today to assign the \$115,000. from the Smith and Bybee Lakes Wildlife Fund instead to purchase and acquisition of a habitat buffer area along Bybee Lake for permanent protection of the Western Painted Turtle population. Unless Metro protects their habitat, monitoring alone will not save this critically listed species.

We would like the Western Painted Turtle population to survive into the coming century as an integral part of the North Portland environment, and for the enjoyment and education of our children's generation.

Signed,



Kevin O'Sullivan, member
The Eastside Democratic Club

cc The Oregonian, Southwest Community Connection, The Portland Examiner,
The Scanner, The Portland Alliance, Southeast Examiner, Sellwood Bee, East
County News, Northwest Examiner, St. Johns Review

I work with one of the few neighborhoods left in Portland with large undeveloped lots. This area also has hilly terrain. We have problems with the quality of development currently proposed and/or approved in our neighborhood.

I would hope that you would make all public safety issues relevant in all land use reviews.

When new development is approved, I would hope more through local service streets would be designed into developments so that no street has to have EXCESSIVE LEVELS OF TRAFFIC in brand new areas. Transportation, with the Council's help, could do a much better job requiring infrastructure to support development as it is proposed.

I do have hope for the future. BES is doing a much better job reviewing and helping developers to comply with the Clean Water Act and the ESA listing. Recently a developer from my area went to the Planning Bureau staff and asked if they really had to listen to BES staff. Planning staff said yes.

Proposed new development in combination with the already approved nearby development is going to create pressures on the road system that the system will not be able to handle. The development in this area is occurring faster than the infrastructure that is needed to support it. Inviting more people to this area by building new homes before planning and building the roads to handle the people is not smart development. The people who live in Pleasant Valley are facing traffic congestion and unsafe streets in the near future because development is being allowed to happen in this piecemeal fashion before the street infrastructure is there. There are several items that point to this fact.

A few years ago before development started, the area between 152nd and 162nd was a forest and grass covered butte. Then Hawthorne Ridge/Lexington Hills was approved for 296 lots or 2960 trips per day. The Traffic Calming people say that 1,000 trips per day is the maximum that they like of see on a local service street such as Henderson Way. Since Henderson Way is the only street that extends all the way through Lexington Hills from East to West, it would have had to accommodate almost three times the maximum. But then Emerald View, Emerald Crest, and MacGregor Heights were approved to use Lexington Hills infrastructure. At build out, Henderson Way will have to accommodate almost 5,000 trips per day or 5 times the maximum .

As part of a new land use proposal adjacent to Lexington Hills that is also proposing to use Lexington Hill's infrastructure, Transportation staff wrote, " The applicant is proposing access be connected through Hawthorne Ridge via 152nd to Bybee. The additional

traffic from this development will increase the traffic impact on 152nd to excessive levels for a local service street. Therefore, Traffic management will support this street configuration with the extension of improvements on 152nd south to Odgen Drive." The traffic already approved for 152nd was 104 lots or 1,040 trips per day and the new proposal would add 35 lots or 350 trips per day for a total that would use 152nd of 1,390 trips per day. As part of the subdivision review, Transportation staff tells me that the 1,390 trips on 152nd in staff's words is EXCESSIVE, but the 5,000 trips on Henderson Way is not relevant. Both are local service streets.

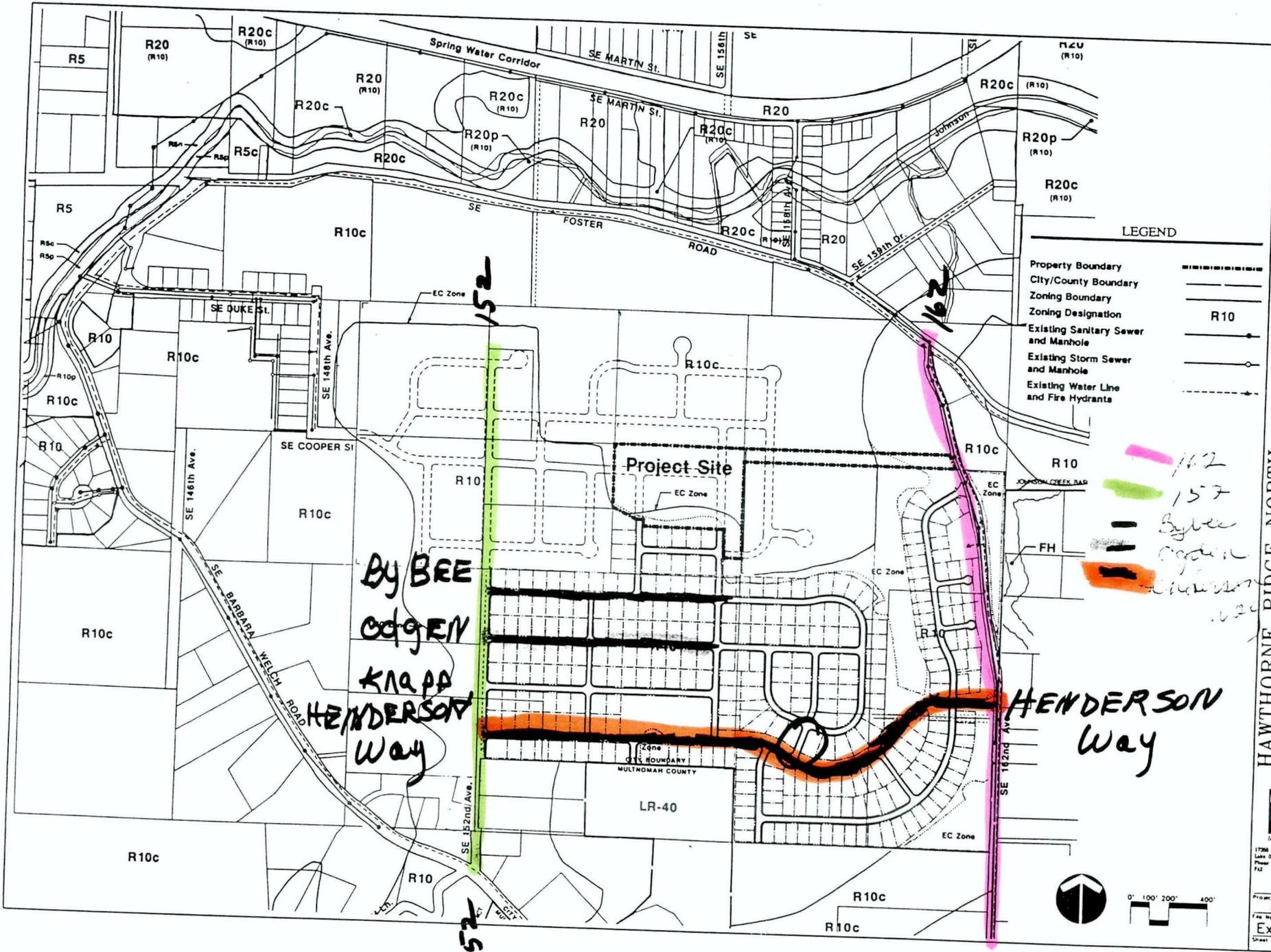
Currently 152nd is a one lane gravel access not wide enough for two cars to pass each other. Along Lexington Hills, 152nd has a half street improvement and from Bybee south 152nd is proposed to be fully improved. Even if 152nd were to be improved to City standards and if half of the traffic were to use 152nd and half of the traffic were to use Henderson Way, both streets would have 2½ times to much traffic. It is inappropriate that new streets such as 152nd and Henderson Way will soon qualify for the Traffic Calming program . It doesn't look like the traffic calming program will be able to help out with the safety and probable speeding problems. Traffic calming does not install speed bumps on streets with grades greater than 8%. Henderson Way has a 15% grade and 152nd varies in grade up to 18%. Traffic calming also uses diversion as an option, but in this case there are no streets to divert to. If there were more through local service streets designed into new developments then the Traffic Calming programs could focus on old poorly designed projects. There are already 500 on the list.

PDOT staff also wrote as part of this new development proposal, " The surrounding major street system and intersections are currently operating at or near capacity. The additional 35 lots and approximately 335 additional trips will further impact traffic in the area. The Pre-application notes requested that the traffic study analyze how a fully improved SE 152nd to Barbara Welch Road would help address the congestion and accident data in the area. This analysis was not done. Transportation Planning is concerned about the increased traffic and congestion the subdivision will create in already over (or at) capacity. The design process has begun for improvements at the major intersections, which when built, should relieve some of the congestion, but these improvements are not built and the true impacts of the development(s) will not be known until the area is built out."

On July 8, 1998, PDOT staff wrote, "(Please note: these improvements will only provide a marginal capacity improvement for this intersection. Volume to capacity ratios for this intersection" (162 & Foster)" will be exceeding one by the time the currently approved developments are fully occupied. In order to provide for long range capacity, Foster Road would have to be developed as a five lane roadway. This has not been proposed.)" Developments are being approved knowing that traffic and safety problems will increase. It is unsafe and bad planning to add houses before the roads can handle the additional traffic.

There are also problems with monitoring the requirements of the development. The Lexington Hills development still does not have all the trees planted that were required in the approved plans.

DATE: 11/18/20 09:33



Date: 11/18/20
 Designed: S.D./D.D.
 Drawn:
 Checked By: Date:

LEGEND

Property Boundary	-----
City/County Boundary	-----
Zoning Boundary	-----
Zoning Designation	R10
Existing Sanitary Sewer and Manhole	-----○-----
Existing Storm Sewer and Manhole	-----○-----
Existing Water Line and Fire Hydrants	-----○-----

162
 157
 By Bee
 COTTEN
 Kraap
 Henderson
 Way

HAWTHORNE RIDGE NORTH

M.C. W. Inc. 127 S. Washington Suite 905
 Portland, Oregon 97224

SURROUNDING AREA MAP



Incorporated
 17500 SE Business Park Rd
 Lake Oswego, Oregon 97035
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 Exhibit 1
 Sheet No:

I work with one of the few neighborhoods left in Portland with large undeveloped lots. This area also has hilly terrain. We have problems with the quality of development currently proposed and/or approved in our neighborhood.

I would hope that you would make all public safety issues relevant in all land use reviews.

When new development is approved, I would hope more through local service streets would be designed into developments so that no street has to have EXCESSIVE LEVELS OF TRAFFIC in brand new areas. Transportation, with the Council's help, could do a much better job requiring infrastructure to support development as it is proposed.

I do have hope for the future. BES is doing a much better job reviewing and helping developers to comply with the Clean Water Act and the ESA listing. Recently a developer from my area went to the Planning Bureau staff and asked if they really had to listen to BES staff. Planning staff said yes.

Proposed new development in combination with the already approved nearby development is going to create pressures on the road system that the system will not be able to handle. The development in this area is occurring faster than the infrastructure that is needed to support it. Inviting more people to this area by building new homes before planning and building the roads to handle the people is not smart development. The people who live in Pleasant Valley are facing traffic congestion and unsafe streets in the near future because development is being allowed to happen in this piecemeal fashion before the street infrastructure is there. There are several items that point to this fact.

A few years ago before development started, the area between 152nd and 162nd was a forest and grass covered butte. Then Hawthorne Ridge/Lexington Hills was approved for 296 lots or 2960 trips per day. The Traffic Calming people say that 1,000 trips per day is the maximum that they like of see on a local service street such as Henderson Way. Since Henderson Way is the only street that extends all the way through Lexington Hills from East to West, it would have had to accommodate almost three times the maximum. But then Emerald View, Emerald Crest, and MacGregor Heights were approved to use Lexington Hills infrastructure. At build out, Henderson Way will have to accommodate almost 5,000 trips per day or 5 times the maximum .

As part of a new land use proposal adjacent to Lexington Hills that is also proposing to use Lexington Hill's infrastructure, Transportation staff wrote, " The applicant is proposing access be connected through Hawthorne Ridge via 152nd to Bybee. The additional

traffic from this development will increase the traffic impact on 152nd to excessive levels for a local service street. Therefore, Traffic management will support this street configuration with the extension of improvements on 152nd south to Odgen Drive." The traffic already approved for 152nd was 104 lots or 1,040 trips per day and the new proposal would add 35 lots or 350 trips per day for a total that would use 152nd of 1,390 trips per day. As part of the subdivision review, Transportation staff tells me that the 1,390 trips on 152nd in staff's words is EXCESSIVE, but the 5,000 trips on Henderson Way is not relevant. Both are local service streets.

Currently 152nd is a one lane gravel access not wide enough for two cars to pass each other. Along Lexington Hills, 152nd has a half street improvement and from Bybee south 152nd is proposed to be fully improved. Even if 152nd were to be improved to City standards and if half of the traffic were to use 152nd and half of the traffic were to use Henderson Way, both streets would have 2½ times to much traffic. It is inappropriate that new streets such as 152nd and Henderson Way will soon qualify for the Traffic Calming program . It doesn't look like the traffic calming program will be able to help out with the safety and probable speeding problems. Traffic calming does not install speed bumps on streets with grades greater than 8%. Henderson Way has a 15% grade and 152nd varies in grade up to 18%. Traffic calming also uses diversion as an option, but in this case there are no streets to divert to. If there were more through local service streets designed into new developments then the Traffic Calming programs could focus on old poorly designed projects. There are already 500 on the list.

PDOT staff also wrote as part of this new development proposal, " The surrounding major street system and intersections are currently operating at or near capacity. The additional 35 lots and approximately 335 additional trips will further impact traffic in the area. The Pre-application notes requested that the traffic study analyze how a fully improved SE 152nd to Barbara Welch Road would help address the congestion and accident data in the area. This analysis was not done. Transportation Planning is concerned about the increased traffic and congestion the subdivision will create in already over (or at) capacity. The design process has begun for improvements at the major intersections, which when built, should relieve some of the congestion, but these improvements are not built and the true impacts of the development(s) will not be known until the area is built out."

On July 8, 1998, PDOT staff wrote, "(Please note: these improvements will only provide a marginal capacity improvement for this intersection. Volume to capacity ratios for this intersection" (162 & Foster)" will be exceeding one by the time the currently approved developments are fully occupied. In order to provide for long range capacity, Foster Road would have to be developed as a five lane roadway. This has not been proposed.)" Developments are being approved knowing that traffic and safety problems will increase. It is unsafe and bad planning to add houses before the roads can handle the additional traffic.

There are also problems with monitoring the requirements of the development. The Lexington Hills development still does not have all the trees planted that were required in the approved plans.