

Metro Solid Waste Advisory Committee (SWAC)
Meeting Minutes
October 15, 2001

Members / *Alternates

Councilor Susan McLain, Chair
Councilor Bill Atherton, Alternate Chair
Dean Kampf, Waste Management (disposal sites)
Merle Irvine, Willamette Resources, Inc. (disposal sites)
*Vince Gilbert, East County Recycling (disposal sites)
Lee Barrett, City of Portland
Tanya Schaefer (Multnomah County citizens)
Matt Korot, City of Gresham (East Multnomah County and cities)
Mike Leichner, Pride Disposal (Washington County haulers)
Rick Winterhalter, Clackamas County
David White, Oregon Refuse & Recycling Association (at-large haulers)
Jeff Murray, Far West Fibers (recycling facilities)
Mike Miller, Gresham Sanitary Service (Multnomah County haulers)
Glenn Zimmerman, Wood Waste Reclamation (composters)
Sarah Jo Chaplen, Washington County cities
Mike Misovetz (Clackamas County citizens)

Non-voting Members Present

Doug DeVries, CSU
Sally Puent, DEQ
Terry Petersen, REM

Metro and Guests

Ray Phelps, WRI	Adam Winston, Waste Management, Inc.
Paul Garrahan, Metro	Roy Brower, Metro
Chris Bell, Merina & Co.	Greg Ryan, River City
Tom Wyatt, BFI	Eric Merrill, Waste Connections
Leann Linson, Metro	Ralph Gilvert, East County Recycling
Bryan Engleson, Columbia Environmental	Easton Cross, BFI
Kevin Rauch, City of Troutdale	Laura Oppenheimer, Oregonian
Karen Feher, Metro	Steve Kraten, Metro
Kathryn Miller, NGI	Tim Raphael, Celilo Group
Scott Keller, City of Beaverton	Douglas Anderson, Metro
Bill Metzler, Metro	Connie Kinney, Metro
Rod Park, Metro Councilor	Janet Matthews, Metro
Rose Marie Davis, Jackson SWCD; Rogue Basin Coordinating Council	

Chair McLain brought the meeting to order.

Chair McLain asked for a motion from the committee for adoption or changes to the meeting of September 17, 2001 and September 24, 2001 meeting minutes. Mr. Irvine placed a motion to adopt the minutes, Mr. Irvine seconded the motion. The committee unanimously approved both sets of minutes as read.

REM Director's Updates

Mr. Petersen stated there were no updates.

Status of REM Legislative Package

Chair McLain explained that Mr. Petersen would review the goals and vision of the legislative package, she will give the committee an update on the amendments that were passed at the REM committee that Mr. Atherton chairs. Chair McLain said she would then open the meeting up for discussion of the package.

Mr. Petersen: Rather than walking through each of the ordinances and pointing out the highlights, I will take each goal one at a time and tell the committee what is in the ordinances that addresses each specific goal. There are four goals I would like to focus on, and will point out the things in the ordinances that address each one of the goals. These are my understanding of what the goals are that staff has been working on, and what some of the key parts of these ordinances are. If I miss something, speak up and let me know because it isn't my intention to skip over any important parts. It might be helpful if you write down the number of the ordinances.

Ordinance 916, Local Transfer Station Regulations
Ordinance 917, Flow Control Amendments
Ordinance 918, Solid Waste Fees
Ordinance 919, Regional System Fee Credit Program

At the Council Solid Waste Meeting last Wednesday, two of the ordinances were forwarded on to the Council: 917, with no amendments. Ordinance 919, had three amendments attached to that ordinance. One was to establish a work group to report back to the Council on some of the things the committee has been discussing in previous meetings, that would be needed to implement this program. Another amendment had the effect of eliminating the reference to a 5% allowance on the inerts. I believe the draft the committee has previously viewed had the 5% allowance. And an amendment by Councilor Atherton to have the department report back to the Council on a semi-annual basis on how the actual payment of the credits compares to the appropriation.

The other two ordinances, 916 and 918, the committee asked specifically to come back to this (SWAC) committee and get further advice before any other action is taken at the REM committee and forwarded on to the full Council.

First and foremost on my priority list is always waste reduction, I view that as the primary mission of the department. That is the first goal that I always look to. There are five things in these ordinances that address waste reduction, and let me just walk through those five things: 1) that 916 removes the cap on dry waste with the intent on getting more of the dry waste that is now going to landfills and into the recovery facilities; 2) 919 eliminates the sunset date for the Regional System Fee Credit which in effect, makes it permanent; 3) 919 also has a policy direction statement that we will focus that credit money on high priority materials; 4) 919 also increases the minimum recovery rate to be eligible for the credit from the current 25% to 35%; 5) an effect of this package that is one that we haven't talked about a lot, which is that as more

tonnage is diverted away from Metro facilities, particularly Metro South, I think that will free up some space at our facilities that will allow us to do more recovery. So I think that's kind of a secondary waste reduction benefit of these packages – it gives us more space to do more recovery at our facilities.

Goal #2, provide local access – which I also relate back to the idea of trying to reduce the vehicle miles traveled in the region, kind of a combined goal there. This package, in Ordinance 916 establishes policy guidelines that the caps on wet waste will be defined by service areas that are defined by travel distance. And then also requires that those facilities serve the local haulers. I think those two things: a cap based on the amount of waste in the service area combined with that requirement, that the facilities serve the local haulers is going to have the effect of getting more of the trucks to the nearest facility than what we have now. Secondly, under this particular goal is that Ordinance 916 modifies the three existing local transfer stations that we have, WRI, Pride and Recycle America, to make those franchises consistent with the overall framework that is established in this new ordinance. And therefore, raises the caps at those three existing facilities from the current 50,000 cap that is currently in place.

Goal #3, of course, is one that I pay a lot of attention to and that is to maintain the efficiency of the existing facilities. I think that this is not just the Metro facilities, but also includes the five facilities that we currently have. But in terms of the Metro facilities, in making sure that we maintain some efficiency level there because they are public facilities, they do provide more public services than the private facilities do, there are several things that this package does. Most importantly in Ordinance 918, the one that deals with Metro tip fees, is that if we (Metro) allocate some cost – some regional cost back to the regional system fee rather than just charging those costs at the Metro transfer stations, -- the principal, again, is one that we've talked about. The regional costs, things that are truly regional in nature, will be allocated to the Regional System Fee, and that has a secondary effect of making the Metro facilities, and our rates, less sensitive to tonnage moving away from our facilities. The policy, again, is regional costs are funded through the regional system fee, secondary effect of that is we become less sensitive to tonnage moving away from our facilities. Because those costs will still be captured, no matter where the tonnage goes. Secondly, under this efficiency goal is that some of the major obligations that Metro is committed to, particularly the public revenue bonds that were issued for the construction of these facilities – that debt service is included in the Regional System Fee. Same kind of principal that I've already talked about. And, again, there is a cap on wet waste at the private facilities which also has the impact of minimizing the tonnage loss from not just Metro facilities, but any facility that might otherwise be getting wet waste.

Goal #4, financial benefit to the ratepayers. I won't go into all of the system cost analysis that we've talked about – trading off the benefits on the collection side against other cost increases elsewhere – I think we've talked about that quite a bit. I'll just point out that Ordinance 918, as it was originally presented to the committee had the effect of a Metro tip fee of \$65.50. As it was amended in the committee, the Metro tip fee would be \$65.00. Because the effect of the amendment is that more tonnage stays at the Metro facilities, which resulted in a lower unit cost at our facilities. I also pointed out at the committee that that is a rate increase. I hope everyone keeps in mind that that is a rate, though, that is well below the rate that we had ten years ago in this region. You all know that at one point our rate was \$75.00/per ton. And as far as I know, I

believe this is still the lowest rate on the West Coast, for a comparable type of long-haul transport system. So if you look at Seattle, or Sonoma County where they're transporting waste long distances, I think this rate is still well below any of those comparable kinds of systems on the West Coast, which I think, just reflects the effort that we've made to try and keep our costs down and still try to provide good service.

Councilor McLain, I think that is my summary, and again, I think those are some of the highlights that I see in these ordinances, and if I've missed anything, please be sure and point them out. Overall, I think it's a package of legislation that points the solid waste system in a good direction. I know we don't all agree on every element of the package, but I think it is a good overall package and I hope the Council will be able to support it.

Chair McLain: Thank you very much. I am going to take about four or five minutes now to add to Terry's comments and give you a little bit more detail about what went on at the REM committee. I also have two handouts that I am going to give you today that I'm going to refer to. And these actually came to me after the packet (agenda packet) was mailed. It's just additional information to what you've already received, it is not necessarily new information, but its some clarity that I believe you needed to have as we discuss these ordinances and this package today.

First of all, I want to compliment Councilor Atherton. I think if you turn in your packet to the first page, you will see his two amendments which did pass, three to zero, and I did talk to many of you during the week to let you know this. In Ordinance 916, for example, Councilor Atherton asked us to compromise and change the floor for recycling to 30% and to keep the 35% for the actual credit programs so that you do have to achieve higher goals than we've done in the past in this region. I think there are some good reasons for that. Terry pointed out the most important one, and that is that our number one goal is waste reduction. So, the many kinds of things that we can do, that will help us with waste reduction, which is to help continue to support our program of basically giving money out for people who do a better job of recycling at their facilities, is very important to this Council. The second amendment is also one that I believe should point you to the understanding that this Council is very serious about recycling, and that is that Mr. Atherton asked that there be a semi-annual report to the Council on the status of the credit program so that we can see specifically who is getting the credits, what we're paying those credits out for, so that we can look for additional ways to give incentives or support to this program and other programs to try and help us get to those hard to recycle streams in the wastestream. Both of those amendments did pass, and they both, I believe, support our Goal #1.

I asked Mr. Petersen for an additional memo (now being distributed), that would relate to some of my amendments, which are on page 2, and I will give you another copy of those because Mr. Houser and I had a misunderstanding on exactly where to put some language in one of my amendments. It made it look as though it was exclusive for the eastern transfer station, but it was supposed to be for the process, which is described in this ordinance. So, the first thing that you will notice on the memo from Mr. Petersen, is I asked the question, as it dealt to Ordinance 916A, how we would address potential situations where a local transfer station might exceed the tonnage cap as a result of serving haulers from within that local service area. Because I know, quite frankly, that even though we are taking the cap off of dry waste, even though we are increasing the cap on wet waste by 15,000 tons, there still are certain facilities or one facility or

two facilities that might have a problem under certain conditions. So, as you can see, there are options there that are within the system that any facility that found itself in that position might be able to use.

First would be Section 3.b which establishes a formal review of the cap every two years. That's still in place, and that was in the original ordinance, and we did not change that. If this review indicated the cap was too low, the Council could choose to make that adjustment at that time.

Section 3.c allows the Executive Officer to authorize limited adjustments in the caps during the interim two-year period if the waste is from the local service area and such an adjustment does not exceed a 5% increase in the cap. That, again, is in the original ordinance that you saw at the last SWAC meeting and is available to people who may have that problem.

One of the other questions that was asked of me and that is, what if there is a contradiction: they can't stay under the 65,000 ton cap, and still be able to handle all of the local haulers that might want to come to their facility. Again, if that is the case, this particular set of options would be available for them to be able to bring to the Council an issue of that concern.

The second page that has just been distributed, you will see that under Amendment #2, on Ordinance 916A, look to the second line where it says "... add any change in the waste limitations outlined in this section that will be reviewed and approved by the Council prior to their implementation." All we are saying is that if there is going to be a change in the cap, we'll go through the review process outlined in this ordinance, and the Council will review it. That's all. It goes to any increases in the cap that are not outlined in the administrative change. That should be very clear to you, then, that you still have the items that you saw at the last SWAC meeting, in place, for how you would deal with any problem, if you couldn't deal with a local hauler and stay under your cap – what is the process for you to deal with that. Those processes are there in this ordinance, and they are certainly ready to go.

The second element is that there is nothing in this ordinance that says that we cannot move up from that 65,000 ton cap. There is nothing there that limits it, there is nothing there that stops it, there is nothing there to suggest that we won't do that with a proper and appropriate review.

The only other item that I would wish to say about that amendment two, is that when Terry presented the goals today, he said we have the waste reduction goal, the local access and reduce the vehicle miles traveled goal. We have to make sure that the system is efficient and whole, including Metro facilities as our third goal, and we have the financial benefit to the ratepayers. The change in this ordinance came from trying to balance those four goals. If we went ahead and ramped up without any review, if we ramped up to get to that vehicle miles traveled and that transportation goal ONLY, without looking at the efficiencies at the Metro level, without looking at what it would cost to run the Metro facilities with less tonnage, then we would find that we would not be able to meet all four goals. And all four goals were set out as being important to this package of ordinances.

Now that talks a little about the dialogue and the discussions we had at the REM committee. Amendment #1 was pretty simple, it was something you folks suggested – I wanted to make sure

that we made a permanent, definite request, in this ordinance, to have a committee to deal with some more of these recycling issues. As I talked to you folks this past week on these issues, this committee is set up – it won't be permanent, it will work from December to March and report back to the Council on March 1, 2002, and if we find it important and necessary, we can always bring it back if we need it again. What that will do is to give three to four more months for the people in this group and others who want to sit on that committee, to have a chance to talk with staff and Council, about what we need to do to further refine our recycling goals, our recycling program and our recycling efforts.

There also is an outstanding issue that I hope you folks address today. We have had two motions: The results of one motion was 15 to 2 to basically only count what the state continues to count as recyclables. We also had a motion at the next meeting, which basically allowed the inerts to stay in place as they are while this committee functions. Those two do not necessarily have to be contradictory, they could be parallel, if we want to consider that we don't want to count only what the State counts until after this committee has finished its work. The reason I support that review is that I think that it is important for this committee, for at least four months, to have an opportunity to refine how the inerts fit in with the rest of the focus of the committee work that we have in front of them. We told you that if you all want to be on that committee, that work will happen right here. It will just be a big committee on recycling. So all of that is still to come and we'll work that out with Terry. Now, Terry likes big committees, and he told me he is really looking forward to another one. But, we will work out who is going to be on the committee and your recommendations are welcome and we will work all that out after this ordinance passes at the Council level.

That is the background of the amendment package. That is the background on the work that was accomplished last week by the Council and other Council members, and that's what is in front of you here today to talk about. I'm going to ask, at this time, if Councilor Atherton has any other comments he'd like to make about the committee.

Councilor Atherton: Well, I have some comments, but I'm going to take those up when we get to the end of this discussion.

Chair McLain: Okay, at this time then, what we'd like to spend our time on is focusing on these four amendments, as they affect the overall package that you folks have been working on in August and September. So, I'm open for thoughts, ideas suggestions.

Ms. Chaplen: If not everyone in SWAC chooses to be on that committee, as the amendment currently reads, the report will go to the Council as a whole. Will it stop by SWAC before going to the Council?

Chair McLain: Yes.

Ms. Chaplen: My second question is that on Ordinance 916A, page 10 of 11, Section 4.2, Limit on waste accepted. What does the last sentence refer to? (inaudible) . . . outlined . . . approved by Council, . . . doesn't this implement it?

Chair McLain: Yes it does, and that's why, Sara, on that new page that I handed out to you today, I felt like that was unclear also, and so I wrote: "any change in the wet waste limitations outlined in this section shall be reviewed and approved by Council prior to their implementation." All that's referring to is this ordinance. It's reiterating that the process is in place. That you do have a two-year on-going rotation process to look at the wastesheds as well as to look at the caps and see if they are legitimate for that wasteshed. So, it is not an additional one, it is simply the ordinance process that is being outlined in this ordinance.

Chair McLain: Anybody else on that issue?

Mr. Korot: If I could I'd just like to get a little bit more detail on this balancing of roles, particularly as it relates to ensuring that we are protecting our investment in Metro facilities. When Doug and Terry made the initial presentation about this whole concept of local service areas and where tons kind of fell, naturally, I made the inference, and I think I did so incorrectly, that that was done in the context of what would support the system as a whole. So that if we allowed 130,000 tons to go to private facilities on the east side and on the west side, public facilities could still be supported – be financially viable. Is there new information, or information that I missed that kind of demonstrates why that isn't so. Or at what level those tonnage levels need to be to keep South and Central whole?

Chair McLain: That is still a debateable issue and you didn't miss anything. I think you're just still in the same debate that many of us are. And that is, we do have a put or pay in our franchise. There is differing opinions between staff and some councilors, and others in the industry who have been talking to us about what we need to keep our own Metro facilities whole. There is also a discussion about how efficient we can be with a lower tonnage. If that efficiency is going to make us able to recycle more, or if that efficiency is going to cost us more to run our facilities, and cost so much that neither can we bear it, as the Metro system, nor can the regional system fee bear it, because your not willing to pay that high of an overall cost for running the whole system. So, all of those issues are still in flux and in the discussion. We will be continuing many of those conversations, as we put out the RFP on the managers for our transfer station. What this group of ordinances has done is to allow us to continue those conversations with you, and with others. Because it allows us to be conservative about how we balance those four goals. Yes, we're going to head toward vehicle miles traveled, but we're not going to get all the way – 100% there in this little package of four ordinances. Yes, we are going to continue to keep enough tonnage at Metro that we can keep reasonable rates. So, to your question, it's the crux, as far as I'm concerned of relaying this package of ordinances to our next work on the RFP and managing our own facilities. Does this help?

Mr. Korot: It did help. Is there any way to have some of that data by the time that the Council considers

Chair McLain: Absolutely. I think that we have some work out there that you can interpret, but what we've asked staff to do, and the Presiding Officer, David Bragdon, myself, and Rod Park, have asked three questions of staff. And we were supposed to receive that memo today.

Mr. Petersen: And you will.

Chair McLain: And we will. And it is a question that adds some of the precise analysis. The facts are there. The facts aren't changing. The data's not changing. We know how much tonnage we've gotten in the past; we know how much tonnage we are receiving today; we know what the forecasted tonnage is; we know what the differences are in the tonnage predictions of 18 months ago and a year ago and now. So what we're trying to do is to make sure that the interpretation of how that affects our system, and the overall system, has some grains of truth for anybody in the system and basically, we (Metro) have to protect our bonded indebtedness. And our bonded indebtedness on the transfer stations, are something that we (Metro Council) are personally responsible for. That is what we are trying to get those questions on. Terry and Janet Matthews have been working on those over the weekend and last Thursday and Friday. And we will make those available to you after we've had a chance to review them. Okay?

Mr. Korot: Thank you.

Chair McLain: Your welcome. Anybody else?

Mr. White: What's the timeframe – I should know this but I don't. For the operation of Metro's facilities?

Mr. Petersen: We're going to put that out to bid here within the next few months and the current contract expires the end of September, 2002. So we want to have a new operator in place and ready to go in October, 2002.

Chair McLain: Okay, other general questions about the package?

Mr. Winterhalter: Just a general question – I think it's general. Regarding the committee – effective date of the ordinance, and its timeframe. It says Section 3 shall become effective 90-days after the adoption of this. Section 3 relates to the forming of a committee. And it sounds to me like we have a month.

Chair McLain: We can put an emergency clause on something like that and we would. So that would mean that it would become effective right away.

Chair McLain: Okay, those were general questions. Now we're going to get to – I know how you love to editorialize, and we love to hear it. I did have some phone conversations with many of you and there were some comments that you folks made on the phone with me that I think are important. This debate is one that we're all – I think we are all looking for the same goal. The goal is that we can run our businesses, and you can run your business and that we do fit the ratepayer. And that we do a good job on the services that we provide to the public. So, that's what we're headed for – that's what we're trying to accomplish. So, I'd like to open the discussion up to editorializing, individual comments, anything you'd like to say on the package.

Mr. Winterhalter: A point of clarification. Looking through the minutes, I want to make sure I understand the local access issue, and the data that's being used. The data that is being used, that generated the tonnage for the local transfer stations, is 130,000. That comes from all of the

businesses in the area. All of the businesses, all of the demographics, and all that, and that's what's in the model – everything that's on the ground within that service area?

Mr. Petersen: Yeah, there's two pretty straight-forward staff tests in meeting the tonnage: One is to define the service area (based on travel distance) and you are familiar with how the maps are broken up. And then within each one of those service areas, we've used the data that we have on the location of businesses and households. And then generation rates for different types of businesses to estimate how much total wet waste and how much total dry waste is within each one of those service areas.

Mr. Winterhalter: And then the local access issue, is only focusing on the franchise hauler?

Mr. Petersen: Um, no. We had in there, in one of the earlier – very early drafts that you saw of this ordinance. There was a reference to that local access, only applying to haulers that had geographic franchise areas. And we've heard comments back from you, and I think it was Mr. Barrett that was questioning whether or not that was the best approach. So, we removed that, and that's not in there. It is more open-ended now in terms of access and I think this is another one of those – and I think I've said this before – but I think this is another one of these areas where we're going to need to get together with a committee of people and write us some administrative procedures and other things on how we are actually going to implement that.

Chair McLain: Terry and I have a fond reference to this administrative procedures. Because, I want the policy. If there is a policy issue I want it to happen at this table. If it is truly an administrative issue, I want it to happen with this committee with Terry. So if you have a policy issue on this, let's bring it out, there is still time to amend, there is still time for us to have an opportunity to change. So if there is something that you're thinking about that doesn't make sense as the ordinance is written, let's hear it.

**MOTION TO ACCEPT COUNCILOR ATHERTON'S AMENDMENT 1, AND 2;
COUNCILOR MCLAIN'S AMENDMENT 1 FOR A SWAC SUBCOMMITTEE**

Mr. Barrett: Well, once again, in an attempt to focus this discussion, perhaps I can suggest that we make a Motion to ask SWAC if they could accept Councilor Atherton's Amendment 1 and 2, and Councilor McLain, your Amendment 1. Since, if I'm reading the group correctly, there may be little if any controversy about those three, and then we can get those off the table and concentrate on the one that perhaps will generate the greatest amount of discussion.

Chair McLain: Okay, there is a motion on the table that would be to have SWAC, in one motion, accept Amendment 1 and Amendment 2 from Councilor Atherton, and my (Chair McLain) Amendment 1, which creates the Recycling Committee. Is there a second?

Mr. Vince Gilbert: Seconded the motion.

Chair McLain: Seeing no discussion on that motion, I will ask all those in favor of that motion to raise their hands.

Mr. White: Well, can we wait just a second.

Mr. Miller: What does your (Councilor McLain) amendment entail?

Chair McLain: All it does is create the committee to report back on March 1, 2002.

Mr. Barrett: Trust me. (much laughter).

Chair McLain: All in favor of the amendment package of the two from Mr. Atherton and my one, would you raise your hands please.

The committee passed the motion unanimously 14 to zero.

Chair McLain: At this point we are going to turn to the second amendment that I put forward: that is the amendment that describes the tonnage cap, and that is the amendment that you just received a memo on that was dated October 12, from Terry, and you also received a new packet which describes that language. Now, let me just precisely tell you then, the difference between what you saw at the last SWAC meeting, and this SWAC meeting. Last SWAC meeting, on page 10, there was a graduated ramp-up for the East County facility. At this meeting, you have 65,000 tons given for the wet waste cap at all facilities; you have the administrative review in place for a 5%, one time only within the two-year period; and you have an opportunity for Council to review additional cap increases. Now we're open for discussion on that issue.

Mr. Miller: Mr. Barrett, it's your turn to trust me. As I understand it, as long as a facility is below their cap, they can accept waste from anyplace.

Chair McLain: They are supposed to accept waste from anyplace, but they need to deal with local haulers that want to be there.

Mr. Miller: But as long as they are below the cap, they can accept waste from anyplace?

Chair McLain: That's true.

Mr. Miller: From any company, it can come from any place?

Chair McLain: That's true.

Mr. Miller: Okay, you had mentioned that once they reached their cap, there is some procedures to be able to raise their cap.

Chair McLain: Correct.

Mr. Miller: Okay, to be able to serve local haulers would they, then at that time, be required to discontinue accepting waste from outside of the service area before they would be granted any additional tonnage? Or would they be required to not accept waste from outside of the district and then be able to fit the local hauler under their cap?

Chair McLain: I think that those two scenarios that you've laid out are both possible. Because right now we haven't addressed that in this ordinance. And I would say to you that there are debatable pros and cons on those two scenarios. But I would suggest to you that this ordinance says that local haulers will be served. And so whatever they come up with, they have to demonstrate that local haulers will be served.

Mr. Miller: Because what I'm saying is then, that's my question. Are you then saying that if a local hauler wants access, that if a facility had to turn away tonnage that they have been getting, historically, from outside of the district, they would have to do that?

Chair McLain: That would be as I would see it as the first change.

Mr. Miller: It is unclear in the presentation on the amendment. So, if that's the case, I think we need to state it clearly.

Chair McLain: Okay, we can do that.

Mr. Kampfer: If a facility is up against their cap, what is the process, and how long will the process take for that cap to be extended to the needed cap in that service area.

Chair McLain: Well, Dean, as we pointed out here, we have four goals, not just one. And so we're going to be looking at the local access and the VMT (vehicle miles traveled) in the bundle of goals, and so there is going to be a review process. The longest it could take would be two years because that is what the review process is in the ordinance. A small change could happen if it's under 5%, as soon as the administrative review has been done. If there is going to be an in-between tonnage, that doesn't fit the administrative, but it is something that they think they can't wait until the two-year review, that certainly can be brought forward to the Council at the time because there is a process in place to allow that. And we haven't said that we will not act until the end of that two year process.

Mr. Kampfer: So it's probably a pretty involved process and 5% of 65,000 is 3,000 tons?

Chair McLain: I would say that we think we've cleaned up and straightened up the criteria and there is more of a washed concept so there is more guidance, instead of less guidance. So, I wouldn't consider it that.

Mr. Barrett: I just wanted to clarify that the tonnage that we're talking about is only tons from within the Metro region. There were some comments before about tons possibly coming from outside of the region.

Chair McLain: That's correct. That was on the recycling program. And that is one of those issues, I think the committee will address. Where we said – and again, we would want to have the waste within our district dealt with first. So that would certainly be appropriate as a comment from the committee. I'm just going to go around the table for comments.

Mr. Tim Raphael (from gallery): I just want a clarification on the relationship of the wasteshed and the local access issue. My understanding is that the wasteshed in East County was 130,000 tons. How do you serve that local access area with a 65,000 ton cap?

Chair McLain: Tim it is difficult to hear you back there. What I did hear was that if you have a cap that was 65,000 tons, and you have more local haulers that would add up to above 65,000 tons, what do you do? And the first answer that we've said around this table is that first of all there is no lost tonnage. Everybody has a home. It can go someplace. And what we've also said is that nobody is going to be penalized. If a local hauler wants to go to the facility that is up against the cap, we have basically committed to working through the process to see what is necessary to make sure that that cap is appropriate. But we are going to do it conservatively, and we are going to do it with Council review because we want to make sure that we have also looked at our other three goals. That was just but one of the four. And the process is laid out for you in this ordinance. And it includes administrative review, and it also includes review by the Council, with staff looking at the technical aspects.

Mr. Winston (from the gallery): Since you mentioned that the tons can be increased with review, but the staff has already said that the tons should be increased on a specific time-line, but now for some reason is gone away. And for quite a long time we've been discussing this issue of what is a regional transfer station, or increased tons specifically for Recycle America, and then, out of the blue, Terry's staff came up with a review on what should happen at least with a timeline, and then all of a sudden we get this put or pay issue. So it seems to me, I guess, what happened with the staff review that wasn't proper. It seems they already gave the proper review, and that we should have known about this put or pay issue a long time ago.

Chair McLain: Adam, that was about three questions, and I'm going to answer all of them, and if I don't you tell me. Number one, as far as the staff's review. The staff makes recommendations, they don't make policy, they make recommendations. And their recommendation was that one way you could deal with the tonnage was to do a ramp-up. In the REM committee, we indicated that we felt it was important for us to be very conservative because of some of the events that have happened since September 11, 2001. Because of the fact that we are supposedly officially in a recession. Because of the fact that the tonnage, overall throughout the region – the forecast has been going down, and it's continuing not to seem to perk up. There seems to be a flat-line or a decrease in the possible tonnage for all facilities. And we (Council) wanted to be very conservative in our review and in our approach. So, the staff gave a recommendation at the committee level. We reviewed that, and we felt there were other ways that we could handle it. The second question, and that is basically dealing with the idea that: shouldn't you have known about "put or pay?" Put or pay is part of our RFP process. Put or pay has been part of the conversation, at least with individuals from the industry that I've talked to all the way back to January. It has not officially been part of this conversation, because that is part of our franchise and it is part of our RFP, and as we've already pointed out in this committee meeting, today, that process is going on from now until October. So you will have a lot of time to give us your input on that issue. You may have had another question – did I miss it?

Mr. Winston: That's fine.

Mr. Vince Gilbert: To follow-up on what you just said. There are two put or pays. And does everybody know what put or pay is? Some people may be confused what that is.

Chair McLain: The put or pay element in our franchise, basically says that when we put out a bid for the management of our transfer stations, we guarantee that so much tonnage will come into that transfer station. And if that tonnage does not come into that transfer station, we agree to pay up to a certain amount if it goes below that tonnage. So, it is a guarantee that that manager knows exactly how much tonnage he has, and he also knows exactly how much he will have to manage and what those costs might be. So, that is part of the franchise process that we review when we do our RFP.

Mr. Vince Gilbert: My only other comment is a follow-up on what Mike said. If the local haulers bring their tons to the facility, but the owner of the facility is bringing tons from outside the area to their facility, how does Metro know whether those tons came from outside of the area, or within the area?

Mr. Petersen: It is very important for us to know and to continue to track that at all facilities, because the Regional System Fee is collected and paid on in-district tons, but not out-of-district tons. So, not only do we have an interest tracking that, but facility operators have an interest in tracking that very closely. Like Forest Grove right now. They track that very carefully because they don't want to pay a Regional System Fee on out-of-district tons. So, Vince, we rely and count on the facilities to keep track of that as part of their transaction data.

Mr. Vince Gilbert: Well, our facility, for example, we don't know where a lot of the tons come from. I mean I don't know where they come from.

Mr. Petersen: Correct, and if a facility chooses not to track, then first of all, you owe us the Regional System Fee on all your tonnage, and all the tonnage would count towards the cap. So, it is your choice. But those facilities have an incentive to track the in-district and out-of-district tons.

Mr. Korot: How do you distinguish, then, at Recycle America, between in-service area tons, and out-of-service area tons from in-district tons?

Mr. Petersen: Well, this package that we are putting together here, of the service areas and the requirement to serve local haulers is going to take another level of administration. And now it's going to take us, in some way, to be able to track where waste is coming from within the region. I don't think that will be quite as difficult as what it may sound like, because remember, we are talking about commercial tonnage here. And I believe we will be able to track commercial haulers and commercial tonnage. We will have to deal with, in some way, the drop box issue where we've got drop boxes coming from all over the place. But the point here is that we're going to have start tracking not just in-district – out-of-district, we're going to have to somehow track within service areas.

Chair McLain: There are local franchises that haul in-district. It's not that we don't have the availability of that material. It's just a commitment that we're making to actually look at that material and actually use it as part of our limitation and review.

Mr. Petersen: Just for the record, I want to make a clarification on what Councilor McLain said about the put or pay issue. The concept of what she said is absolutely right on, but we technically do not guarantee a "tonnage," we (Metro) guarantee a certain amount if the tonnage goes below a certain level. But we don't guarantee that the operator will receive any level of tonnage.

Chair McLain: And, of course, we cannot do that because of flow control reasons. So, if I said that, Terry is absolutely right. We're just making sure that the operator knows specifically what we have and the idea of what could be coming their way.

Mr. Barrett: I wonder if the REM staff would have a number for the total wet tons – residential and commercial from Gresham, Troutdale, Wood Village and Fairview?

Mr. Petersen: Lee, I'm sure we have that number. I don't have it right this moment. Either we have it or the haulers there would have it.

Mr. Barrett: Well, I think that would help this discussion. Since the hang-up appears to be how many tons should allocate or not allocate to Recycle America.

Chair McLain: Well, I'm going to comment on that then Lee because if that's what you want to vote on, you know, that gets away from the balancing of our goals. Because the situation is that the only reason we even have wastesheds that are formulated by distance is because we said one of our four goals was to reduce the vehicle miles traveled. But remember that part of the fourth goal, which is financial benefit, is making sure that there is competition. And there are as many opportunities for people to get any kinds of services that they want. So those wastesheds will be reviewed and changing as the facilities change and as the facilities come on-line. And so, I don't think the question is on how much tonnage we should give to Recycle America. It's on what strategy, or what approach do we want to use on how we increase our tonnage caps. And what we've said is that we want, in this amendment package, of 65,000 tons, that we want to do it conservatively, we want to do it with review on each and every specific case, and we want to do it not with a ramp-up that is artificial. And I think that's important from the committee's point of view. The artificial ramp-up that staff came up with was a guesstimate on what it would be, in a year – in 18 months. We want to do it on a point-by-point basis where each time there is a need, that we are changing our system slowly so it doesn't fall on its head. And that's what we've tried to do to balance reasonableness and goodness for the whole system which includes Metro transfer stations. I would hope I'm supporting what you're saying, Lee, on getting to what the essence of the question is on this one particular ordinance. But it's not just vehicle miles traveled, it's not just wasteshed, and it's not just how much to give one particular facility. It's on how to balance the whole system for the benefit of the ratepayers.

Mr. Brian Engelson (from gallery): Has there ever been a study by Metro or by any of the facilities, or municipality, or anyone that went out and asked individual haulers: would they use

a particular facility within the wasteshed. In fact, several of the haulers have told me they've never been asked.

Chair McLain: In other words, why do you choose to go to this one over the other one?

Mr. Engelson: Or would you go to this one, even if you could – or for whatever reason.

Chair McLain: I don't think there's ever been an official survey of that nature. I think that would be an interesting one. I think that would be a good survey. We have informally heard those types of things. We have people who call us and tell us I don't care what kind of cap you give to this person, or that person, I'm not going there. And they give us their personal reason on why they're not going there. Some of it has to do with service, some with personalities, and sometimes it's whatever their particular strain of costs are, they're able to make the cost of transportation not as important as some of the other costs and so they say they can go farther and still save money. We also have another additional issue here, and let's just be honest about it. As far as rate control issues, as far as rate setting issues, we've gotten to some of that conversation and some of those pieces of information when we said, do you want Metro to be setting rates, or not? And we all know where we have had facilities that have had their rates go up \$2.00 to \$3.00 higher than our rates at the Metro stations. So cost setting, rate setting, all of those issues are going to come into a survey like that.

Mr. Irvine: I have a question that doesn't have to do specifically with your amendment number 2, but it speaks to one of the four goals. And that's the vehicle miles traveled. And we use that as the definer of service areas. And in the staff report, back in September, we talked about both distance and time, as a way of judging or setting or outlining what a service area would be. And in staff reports, it says that the vehicle miles traveled is consistent with your transportation goal, which we all have to live under and strive for. But it also went on to say that when you look at time, time is really what is happening out there right now. That is what governs where the haulers go because time is money. And a facility may be of further distance, but the truck can get from point A to point B much quicker because of road conditions, congestion, and things of this nature. I guess I'd like to hear a little bit of discussion of why we use distance as the determinant of our service areas, rather than time.

Chair McLain: I'm going to ask Mr. Petersen to answer that, but I think we've given the only piece of information that I know. When we looked at this, we said distance is fairly something easy to look at, and to be able to deal with. We heard a little bit from some local jurisdictions, that on this time issue, is that time during peak congestion? Is that time during am hours? Is it time during pm hours? Is it during the middle of the night? What do we mean by time? Is it time only during 7:00 to 9:00, and 4:00 to 6:00? So we had a lot of questions about time. It seemed like every time we asked more about that issue, we got more questions thrown back at us. And the time issue itself seemed to be problematic. That was the only thing I heard. So, Terry, do you want to add to that?

Mr. Petersen: And, again, I think that the distance is time factored back to the VMT state planning goals reduction of vehicle miles, and that was something that some of the Councilors thought was very important that we make that link back to those broader Metro goals. I'll go out

on a limb here, and I'll say that given the type of thing that we just talked about, where haulers may be deciding, for whatever reason, to take their entire franchise area, and go somewhere else, regardless of time or distance, I don't think whether we do draw these lines on the map based on either time or distance is really going to change the fundamental nature of this package we put together. I think those other things, like this one about haulers choosing to go one place or another are going to have much more of an impact rather than whether it's time or distance.

Chair McLain: One of the things that was brought up in the committee, is that there is probably not one package that will reach 100% of all four of those goals. That all four of those goals that we've laid out as being important in our RSWMP, and important in our Strategic Plan, and important in this package of ordinances. There is no way, probably to get to all four. We all know that there is a dynamic tension in our system where we're trying to get our recycling rates up, and we're trying to reduce what goes to the landfill, and yet, what do we do? A lot of us make money on what is disposed of. And so there is some issues that will always carry a dynamic tension. Again, what this package was supposed to do in a conservative way, was allow the conversations on the put or pay; to allow the conversations on the RFP for the transfer stations for Metro; and allow these conversations on recycling issues to continue, but to conservatively go ahead. And I want you to remember, what do you get with this package? You get, number 1, you finally know what is happening with the recycling credits – there is no more sunset; you know that you're getting a committee that will continue to work forward on the recycling issues that you've said are important; you know that you're getting no cap on dry waste; you know that you're getting 15,000 tons more on your cap on wet waste. So you are conservatively gaining ground for some issues that you've said were important to your own personal business goals, and allows us to continue to talk about some of these issues where we still do not have complete agreement. Now that's what I'm hoping to get out of this package.

Mr. White: I was on the subcommittee that talked about the vehicle miles traveled. And we talked a lot about unserved areas. And one of them we kind of talked about was that Aloha area, which is “east” Washington County. Another was, a pocket “west” of Recycle America. The question I have is, if these service areas stay as they are, and if you give this 65,000 tons as being proposed, does that mean that “it's good” now? Like the waste divided up is good – that the vehicle miles traveled are at their optimum? Or does that mean that it could be better? And the reason I'm asking that is because I know your decisions in the future, on whether or not another facility could be sited, are going to be based upon need. And based upon whether or not the facilities that exist are serving the area. So, I guess I'm trying to find out that if another facility comes along, are you today saying, that based on these areas, we're okay? Or do you foresee a time in the future that another facility comes along, that they would be able to site – because it could be optimized better than it is today?

Chair McLain: We've said that we want competition and that if there are future sites that we will certainly look at that optimum issue. And we have people at the committee, and you were there, that actually spoke to that. Saying that they are working on trying to site a facility in one of those areas where that might be true – that very area that you're talking about, west of the Gresham area, and the Troutdale site. So, it's open. What we are trying to do, again, with this package is to make sure that it is always open to new potential and new possibilities. Can it be better? We've already said we can't reach 100% of all four goals, so yes, it can be better.

Mr. White: Well, I'd like to follow-up on that then. Dean's made the point that over on the west side, we are allocating 65,000, and 65,000 -- but there is that area in Aloha, and he also speaks to wherever that is out there. So, we're at least envisioning the situation where down the line someone could put a facility there, or reopen a facility and we would have to take some tons from one of the two facilities to allow them tonnage. On the east side, last month we were talking about the ramp-up and giving them 130,000. But I know that there is at least one other facility that is interested in going in there -- you have spoken about the ability of taking tons away from existing facilities under different scenarios. I think that you are saying that you could take tons away on the west side, and I think you are saying you could take tons away on the east side. So, if I could get a clear understanding of this. Other than a reading of the minutes of one of your REM meetings, I wasn't able to attend, I want to understand where you (Council) feel your authority is to do that. Your amendment speaks to taking a conservative approach, but I keep hearing that you have the authority to take it back. So, my question is -- Mr. Fjordbeck has said that it is not a taking. Is there any other authority other than Marv's opinion? Do you have codes that you can cite? Is there anything that says: we feel confident that if we give out "x" amount of tons, whether its 65,000 and 65,000 on the west side, or 130,000 on the east, that we can take it back?

Chair McLain: Well, first of all, remember that at 65,000 and 65,000, it's not 130,000 to be washed on the west, remember that? And secondly, I'm not going to cite Code, I don't have that memorized. But what we were told in that REM committee, was that legally speaking, we can change the caps up or down. What we discussed at the committee level was that you have the legal aspect, and you also have the political aspect. And the political aspect is that you have a company who has invested in machinery, has invested in new FTE, has invested in a system, and then you try to take tons away from them. Politically it's not sound, and financially it's not sound, and we wouldn't put ourselves in that position. So, the idea is that to do it conservatively, you could always go up, and people can increase their FTE and they can increase their machinery and that type of thing in a pragmatic way. But it is much more difficult, pragmatically, in a realistic way, for business reasons as well as politically.

(turn over tape)

Mr. Petersen: . . . Of course, there would have to be findings, there would have to be a rationale, and why its in the best interest of the region in order to make those kinds of adjustments. And, the reasons why we make adjustments could be: if a facility is not complying with their franchise requirements in terms of recycling or health and safety, or those kinds of things, then I believe we have the authority, clearly, to either yank the entire franchise or take other kinds of enforcement action that might include reducing their tonnage, David. So, the main thing here is there would have to be some findings to make sure that it's not just an arbitrary reduction, or change in their cap.

Mr. White: So, if the siting was on the west side, and more particularly Aloha as an example, you'd be more inclined to not take tons from the two existing facilities, you might try to take them from Forest Grove? Because as you just said, it's hard to take it away once you've given it.

Chair McLain: It's again, a situation where if we are using the wasteshed distance as the only factor or formula, well then, you're right, there might be more of an inclination to do one or the other. But if we're trying to balance services, and we're trying to balance ratepaying issues, including rates at private facilities, there might be reasons to do one over another. But again, being conservative, we're trying – and realize there might be some facilities that say, hey, we don't need that tonnage right now. So, we've got room in our cap and it seems to me that facilities talking to each other about that, might also bring an interesting – I guess I would call it request to the Council saying we don't need it. This facility needs it, let's look at the findings and see if there is some appropriate wasteshed need that we can actually verify.

Mr. White: Part of what I'm trying to understand is what changed from last time to this time? And I've heard what you said about your amendment. I'm trying to understand if staff is comfortable with their position – so I think I understand.

Mr. Merrill: I think you said it earlier today, there are a number of dynamic tensions that go on in this room all the time. And over the ten years I've been watching or 13-14 years, I've seen kind of a progression. And one of the ones I've seen, and I'll (inaudible) to the local MRF's and local reload facilities and transfer stations, was in moving the tons away from the Metro facilities, because they were here first. But what I've always seen and what I sort of see missing this time, is that we have always come back to what was good for the system. And what I see this time, is kind of this glaring error in what we're doing. And that's why I sort of want to speak in favor of your Amendment 2. It is that if we are in the position of the system, paying extra money to a contractor underneath the put or pay for tons that are not processed, that doesn't make sense to me fiscally. And I'm sensitive to the fact that you've been working on this for a long time and that staff have come to a point where they are in agreement, but I don't see why this decision to allow 65,000 tons to each facility can't wait until we rebid the Metro Transfer Station and take care of the situation. And quite frankly, staff doesn't have the ability, any more than I do, to perceive what the effects of the rebidder would be (inaudible) But it seems to me that this is a logical step right now to limit all three facilities to 65,000 tons. Everybody gets a bump, and we wait and see with the future holds before we make a decision that could have negative repercussions in the future.

Chair McLain: I thought that was a really enjoyable comment. He supported my amendment number 2.

Mr. Kampfer: I think we've focused a lot on tons to facilities. But I would refer to the map, behind you. And look at those dots, and put tonnage on those dots. And are you doing what's best for the ratepayers of the region, and for the real bang for the buck you have. And I think if you look at the map, and you look at that black dot, way out in far out East County, and if you go to the Metro South report that says, travel time – 132,175 tons wants to naturally flow to that facility. If you choose to do something less than that, for that facility, tomorrow, then those people in southeast Portland, are paying too much for garbage service. And I think that's an injustice to those people. Those people are paying too much for service and have been for quite a few years, and for us to continue going down that road is not fair. They've supported the system. They've paid too much for service, transportation, and all that. Not to mention that once we do flow that material to Metro Central, or Metro South, we put it in a truck, and then

once again they will drive right past our facility before it comes to its final destination. To me that seems ludicrous, and not the best system for the region.

Chair McLain: Okay, I appreciate your comments. Now is there anyone else that would like to speak to that issue?

Mr. Vince Gilbert: I've said this at the REM committee, and I still want to know what these savings are to the ratepayer? I mean are we talking about one-quarter of one penny? Are we talking about \$.25 cents. What are we talking about? I mean, what are these ratepayers – what is going to be their gain? Twenty-five cents a month for a residential person? Or, what is it? That's one thing, and then another thing that's never been addressed is, following up on what Eric was saying, we've got flow not only from Metro South and Central, but we've got flow away from MRF's. They get a higher recycling rate to facilities that have an economic incentive to bury the material in the ground. They own landfills, they have an economic incentive to make sure that material goes to their facilities so it can go to their landfills. I think that needs to be addressed, because this whole program is making material going away from facilities such as ours and other MRF's.

Mr. Korot: I just wanted to follow up on Eric's comment. The logical conclusion to me then, if you are looking at the system as a whole, and protecting the investment in public facilities is that the entire 45,000 that we are allowing in the three facilities, should be in sent tons. I mean if we are looking at this from system-wide, then we would essentially be allocating 100,000 on each side rather than 130,000 on one side and 65,000 on the other. If indeed we are looking at this from a system-wide perspective.

Chair McLain: There is a question about the maps and the wastesheds. We said that we were willing to revisit the wastesheds and we said that we were willing to change the caps, and so your issue is not out of line, and could be a next logical step after this package is in place.

Mr. Winterhalter: Just a clarification on the caps. Currently, correct me if I'm wrong, the cap is on the back door. And included dry waste, is that correct?

Answer: Yes

Mr. Winterhalter: And so now the cap is going to be on the front door. In fact, the facilities that are dual facilities, could experience greater than 15,000 ton increases.

Chair McLain: Well, they could if they do a better job recycling, which is the incentive that we've been trying to push all along.

Mr. Winterhalter: And we are currently doing a very good job of recycling.

Mr. Murray: I notice we have it set up right now, that we set the cap, and then we review it again officially in two years time. And I hear about the natural flow of material being in excess of our set caps. Could it be possible that we should visit this considerably sooner than, say, two years?

Chair McLain: It does not say that we cannot visit it before two years. And there is a possibility there – amending that to one year. I mean if that is truly a concern. And that would boost that officially, we would take it up in one year, and we would still allow for the administrative 5%, one-time only, within that two year period. So that is a possible amendment that you could put in the form of a motion.

Mr. Miller: Well, as I understand it, if, for instance, a facility, let's say Recycle America, if there was a line of haulers standing at your door saying I can't get in there because the cap has already been met, then you'd visit it right then, wouldn't you?

Chair McLain: Sounds like it. Because that's a dynamic part of that particular ordinance.

Mr. Miller: That seems to answer the question that Dean had.

Mr. White: I've heard three statements from three individuals that I think are raising good points, and that I don't think we have the information on. Bryan Engelson asked the question, have you interviewed the haulers in East County to find out if they are interesting in using this facility, and where they are taking their material currently. Lee has asked how many tons are we talking about, specifically that could be going to Recycle America. So, who are the haulers, where are they taking it, how many tons are we talking about. And then Dean has said that there is a need there, and that these haulers are basically waiting to get in the door, and that the generators, the customers, have been disserved by not being able to go there. They're all coming to that same issue – to me – from different sides. And at this point, it seems kind of anecdotal. I'm hearing there is a need, that's why I voted last time – because there is a need out there. But I've done a few phone calls myself to haulers, and I don't want to share what I've found out, but I think that it would be really helpful if we had that information, and I know we won't have it today. But if we had that information in the form of a report, or a study or a survey that said, here are the tons, here is where they are going, here's the need, and it would either prove or disprove what Waste Management is saying. And I think we can move forward then.

Chair McLain: Well, David I would have one response to that and that is that we're never going to tell haulers where to go. And that a hauler is going to change their mind tomorrow. And that even though the survey could be current on Tuesday, could be out of date on Wednesday. And we have flow control issues that will cause us never to get into that business. So, how we would handle that survey would be very carefully. And as far as making it public knowledge or how we made it public knowledge, I think we would also do that very carefully.

Mr. White: Well, and the same thing applies on the East side and the West side though. I mean your telling us that 65,000 tons can go to these facilities and I'm just asking a question, that we're hearing about kind of hypothetically. Last month we were told that 130,000 tons can go there in the next year-and-one-half. And we were also told that the lawyer said that you could take those tons (after once being awarded) away under certain circumstances. And I thought this was all based on put or pay, but I know it's the September 11th crisis, and other issues. I'm just trying to figure out, realistically, as a voting member of this SWAC, does the stuff need to go to Recycle America, or not?

Chair McLain: You've got that choice to make, and you've got that voice to make and vote to make. My answer to you though, before I go to legal, is that we said to staff that we understand what you think your comfort level is with your ramp-up position. But again, we said that economic issues, September 11 issues, balancing the four goals, and the fact that we can't get to 100% because those four different goals, basically are contradictory to a certain extent. Waste reduction, some of those issues. So we said that we don't want to go that quickly to your (staff's) rampup. Sure, it could go. If everybody that is out there wants to go there, they could go there and it could add up to 130,000 tons. And that would show a need. But what we're saying is that – you pointed out the phone calls, and there may not be that need as quickly. And why put it in an ordinance where you have to have a certain amount at a certain time: six months, one year, 18 months. When instead, we can review it as it becomes necessary. If those people line up at the door, we're going to see that. If they don't line up at the door, then we know somethings, don't we. That there are certain services, or certain provisions, or certain personalities that basically aren't jelling at that moment. But we felt that the staff's ramp-up was artificial.

Mr. Barrett: I asked some of those questions, Mr. White and I think I'd like to share some of that information with you. We have asked some commercial haulers what they would think about hauling their tons to the Recycle America facility if the tonnage cap were increased and much to our great astonishment, some can't wait, and some would never go. I think everyone knows the answer to that. There are some haulers that can't wait to go to a facility, and some haulers that won't go to a facility. We've also looked at the residential side as to what the economic impact is. And Metro staff has told me that approximately 52,000 households in that 130,000 tonnage service area (and that is defined by those red lines, are within the City of Portland. Obviously as you can see by the best use of drab colors, that there is a number of those household where the time difference between Recycle America and Metro South really isn't that great. If, everyone one of those 52,000 households (and this is not the case), but if everyone of them saved 20 minutes of travel time, that would result in a \$.05 cent/per month decrease across the board for the monthly bill. That's about two-tenths of one percent of a typical bill. That is not the case, and maybe 20,000 households, I'd say, would benefit economically, from being able to have material flow to Recycle America, and therefore the ratepayers in the City would have something like a two-cent/per month decrease. So, if there isn't a great economic benefit to the residents of the City of Portland, if Recycle America has a cap of 65,000 tons, or 130,000 tons or 230,000 as far as waste from our city residential haulers alone go to that facility.

Mr. White: That's travel time? Only?

Mr. Barrett: That's travel time

Mr. White: That's taking into account a \$65.00 tip fee – you're not taking into account any disposal difference in the tip fees?

Mr. Barrett: The only savings is decrease in travel time. As far as we were concerned. So, to that, why don't I suggest that SWAC accept your Amendment 2, with the provision to make it clear that the tonnage cap of 65,000 would be reviewed in a year?

MOTION TO AMEND CHAIR McLAIN'S AMENDMENT 2, TO STATE A REVIEW OF THE TONNAGE CAP TO TAKE PLACE WITHIN ONE YEAR (rather than the two years stated within the ordinance)

Chair McLain: Okay, we have a Motion on the McLain Amendment 2, that you received today, the addition that the review would happen in one year instead of two. That would be the only change that's on this paper. Is there a second to that motion?

Ms. Chaplen: I just want a clarification. Is that there would be a review every year, or just the first year?

Mr. Barrett: Every year.

Chair McLain: Okay, every year. Staff will love that. I would suggest to you that the first year, it would be one year, and thereafter you would leave it at two years. You can always come back and suggest that something has happened and you want the review to come immediately, but if you would go the first year one year, and then ever after that, it would be in two year increments. And if it's not enough we can always come back and amend it.

Mr. Vince Gilbert: Would that be on a fiscal year?

Chair McLain: It would have to be.

Mr. Leichner: So, this amendment, when passed, would be effective for the current fiscal year, is that correct?

Chair McLain: It would be one more whole year.

Mr. Leichner: So, you are looking at reviewing this in June of next year, or are you looking to review it in a year out from this fiscal year.

Chair McLain: A year out.

Mr. Leichner: So, 2003 would be the change if there is going to be a change.

Mr. Korot: I just need a clarification. So, now you are saying that the one year would be in 2003? The current amendment says by March 15, 2003, and then by March 15, every two years thereafter. So how are they different?

Chair McLain: Well, the situation is that we would have been done with this work earlier. Remember we were hoping to get done last fiscal year. But the change there, if it's one year, is really what I think it says right now. But, if you think you need more definition than that, then you need to provide it yourself, because that is what it says in the language.

Mr. White: Do we have a second to Mr. Barrett's motion?

Chair McLain: No, not yet. We wanted to clarify the motion, so Lee is it going to be one year, on an on-going basis, or is it going to be in one year with a two-year backup?

Mr. Barrett: I'm happy to have one year with a two-year backup and I believe I heard that perhaps October, 2002 for a first review.

Chair McLain: Well, understand that if you're going to have a result, a product, by July 2003, guess when they are starting, folks? They are starting that review this next year. That's the whole point. This is the product. They have to get back to us by that year. So, they're going to be starting right away. Okay, so I've heard a one-year – October 2002, start the review, and then two years after that first process. Is there a second to Mr. Barrett's motion?

Mr. Murray: Seconded the motion.

Chair McLain: Is there discussion?

Mr. Vince Gilbert: Well, it wouldn't be a true one-year because it has to go to the Council for voting and everything else. I mean if you did it back to October, you're not talking about a year.

Chair McLain: They're starting the review. If they're going to have a product to us in 2003, they will have to start it this next year.

Mr. Gilbert: I'm confused.

Mr. Petersen: I think basically if you understood the motion, it's begin the review in October 2002, we'll basically have one fiscal year (this fiscal year) to see what the actual tonnage is, so that we'll go through June of 2002, and based on that, that would either be the basis for a report back to the Council in October.

Mr. Barrett: The idea being I think from my perspective, is that if you decided a change needed to be made, that change could happen July 1, 2003.

Chair McLain: Yes, that's true.

Mr. Irvine: Refresh my memory. The effective date of these ordinances, and when that new tonnage cap would be effective – when would that happen?

Chair McLain: Right now.

Mr. Petersen: This fiscal year.

Mr. Irvine: So this ordinance is being adopted by the Council right now. What happens to the 65,000 tonnage cap.

Chair McLain: Right now.

Mr. Irvine: So, there is an emergency clause on that?

Mr. Petersen: They're doesn't need to be. The cap is on a fiscal year basis, so that they pass it in October, and it applies – there is a 90-day waiting period before it goes into effect, and there is no emergency clause on here and it is irrelevant because the 90-days stays within the fiscal year.

Mr. White: Your committee, which we've already voted in favor of, what exactly does that committee look at? It's looking at everything, doesn't it?

Chair McLain: We're going to go back through the August meetings, and the September meetings, and we will get together a list of things that you asked for a review by the committee. Terry and I are meeting, and we will meet with the REM committee and we will be putting together a letter of intent to this committee that we agree to. So, you'll get a chance to see that at your next months meeting.

Mr. White: The reason I ask this is that I like this idea of a one-year review. I was even going to propose that that committee start to look at that, but I know that their plate is so full. But I'd like to think that SWAC would get updates during the period of their meetings. It seems they would have to start right now in order to get this completed by October of 2002. I'd like to think that SWAC would continue to get updates on that because it goes back to my earlier question. I think that if there is this issue, where is it going, how much is it, what is the real need. And I'd like to think that as you are doing this review over the next year, if it becomes apparent and you report to SWAC that there really is a need out in Gresham for this service, that maybe we could even review it as we go along. You may need to do a change then.

Chair McLain: Well, I appreciate the fact that you want updates, because you're going to get them. And we are definitely going to have committee reports right back to this committee, every month. Anything we do at REM is going to come right back here for review as we go along. Mr. Atherton and I work real close together on these issues and we will definitely come right here first. I can't think of anything you need in here to make that happen. If you have an amendment I'd be happy to look at it after we vote on the motion on the floor.

Mr. Gilbert: I'd just like to say that this one-year with October 2002, is going away from the conservative views, a little bit. And, I think your amendment was drafted for the conservative view and this, again, goes back to fast tracking. It's eleven months, basically, so it's back on a fast track deal, and I think we need more time for the actual data to be collected. I'd like to go back to the original amendment.

Chair McLain: Well, understand that the original ordinance was 100,000 tons in July 2002.

Mr. Gilbert: No, I mean your original amendment.

Chair McLain: I know. But it would have been in July 2002 that 100,000 tons would go to that one facility, just arbitrarily. And then the year after that it would be 30,000 more tons, arbitrarily. So, understand that it is more conservative than that. But what my point is here is

that review does not mean action. Review says is there a need. So, I consider it still to be conservative because we still get to look and review what staff comments are. And remember the recommendations. And that we have to filter them through, once the committee and the Council have set up the actual goals. So, I'm going to stick with the committee for a moment on the issues dealing with this motion. Is there anything more to talk about with this motion?

Mr. Winterhalter: Well, I think I need clarification. The way the ordinance reads, what we're talking about, one of the reviews is done by Council, another of the reviews is done by Executive Officer, right?

Chair McLain: On this original ordinance, what it says is that it requires staff and the Executive Officer to do a review, and to report it to the Council. Council is not going to do their own review, they will do a review of the staff and the Executive Officer's work.

Mr. Winterhalter: The way this ordinance is, that review, the first one, is due by March 15, 2003, correct?

Chair McLain: Right.

Mr. Winterhalter: And just to get back to what Mr. Miller was saying, the way he phrased it, and the nods that came from you folks, sounded like anytime there were enough people at the door, you could review that. That's not how I read the ordinance. There seems to be some fairly strict limits on when you can perform the review, and how much it can go up within two years. It reads that you can only increase by 5%, and it doesn't matter if there is 10% of waste sitting at the door, you can only increase it by 5%. I'm just trying to get a clarification.

Chair McLain: The 5% is an increase by administrative review. So, you are right that only 5% could be done under administrative review. Which means that Council does not review it. It is just administrative.

Mr. Winterhalter: And only one time during a two-year period.

Chair McLain: So, if the request is larger than 5%, it has to come back to the Council with the staff report that says, this is above 5%, we can't do it administratively, but we think it's practical, we think it's appropriate, and we think you can still balance your four goals. And remember that it says, no longer than two years. The Council can choose to do it as often as they like.

Mr. Winterhalter: Okay, I just wanted to make sure I understood correctly. Thank you.

Mr. Kampfer: I have to ask Terry about the original ordinance that had 100,000 tons in it. Was that 100,000 an arbitrary figure, or based on what?

Mr. Petersen: As Councilor McLain said, this is two different ways of getting to the same point, Dean. We've estimated that there are 130,000 tons of wet waste out there, and there is some uncertainty about the economy. And that's why we settled on 100,000, that was a nod towards the uncertainty that we had in the numbers. So, I wouldn't call it arbitrary, but it's a different

approach. And what Councilor McLain is suggesting here is that she feels that the more conservative approach is more prudent given that uncertainty, and that the annual review is the better way to go. So that was our rationale, Dean for the 100,000 tons, not the 130,000.

Mr. Kampfer: Does the 100,000 tons jeopardize the put or pay issue?

Mr. Petersen: I'm beginning to think that we need a full meeting to this put or pay issue. And I don't know, Councilor McLain, if you really want me to get into the put or pay at this time.

Chair McLain: Well, I don't want you to be put on the spot by Dean to answer that, so don't. What I want you to do is understand, Dean, that as far as the put or pay, we've been given comments that in September and October of next year, before we would have a new provider or manager, if we go through this bid process, that there is an opportunity that we could go below what we have in our franchise agreement right now. And those numbers are available for you to look at. And we will go ahead and have a full session on this as it applies to the regional transfer station RFP process. I'm happy to do that with you today, but I don't think that putting him on the spot without that material here today, is the way to go.

Mr. Kampfer: I think we need to put this put or pay to rest. And were talking about a 12 month period and I think the dollar amount is somewhere in the neighborhood of \$100,000 to \$130,000?

Chair McLain: You don't have to answer that. I don't want you to because those are definite numbers and I want you to have the opportunity to have materials to refer to.

Mr. Petersen: I don't want to get into the put or pay, and the numbers that you are talking about. But I do want to say – I think I need to tell you all that in the past here in the committee, we've talked about annual tonnages at facilities, and how they might change under different scenarios. The 130,000 tons is an annual number. We've also talked about things like rate impacts at Metro – what the per ton impact is. Those numbers haven't changed. When we talk about annual tonnages, and we talk about the per ton price impacts at Metro – all the staff reports, and all the announcements that we've given you – those numbers don't change. What has changed is an understanding on all of our parts about how the monthly tonnages at our facilities are varying. That again doesn't have a bearing, nor does it have an impact or change any of the numbers. But that is a new piece of the information, and I'll stop right there, and I'll not go into any more detail than that.

Chair McLain: We're going to have material here for you on that particular agenda, and we'll be able to explain both the annual and the monthly issues. We'll also have some information here on what staff is putting out on what we're asking for as far as our bid document. There are some elements of that that work into that issue. Before I recognize anybody else, I want you to understand that it is a quarter to five. My wish is that by 5:00 we will have acted on this motion that is in front of us. We have a motion, with a second. We've had discussion on that motion. I will take any other conversation on the motion only. It has to relate to the motion.

Mr. Kampfer: Can I finish? I guess the reason I wanted to put the put or pay in proper perspective is the fact that if Lee Barrett, with the City of Portland, is showing a nickel for those people that are not as well served as the people of Troutdale, Wood Village, The City of Gresham, some of the people in the Clackamas area – Waste Management’s third party economists Eco Northwest did an analysis of this cost, and they showed a system savings of \$1.9 million dollars.

Chair McLain: I understand it. We’ve been through those numbers for over six years and every economist has a different look at it. And if you want to bring that into the REM committee with your application, I think that’s totally appropriate for us to discuss there. Anybody else on those issues that are in front of us for motions?

Ms. Chaplen: You have made a commitment that your going to bring more information to us. Is that (inaudible)

Chair McLain: That certainly is, because those issues deal with our RFP, they deal with the put or pay, and they deal with issues that are not directly related to this motion.

Mr. Raphael: I think it is appropriate, because I think part of the reason we are visiting staff recommendations is the put or pay issue, if I’m not mistaken. And I’m (inaudible)

Chair McLain: And, maybe in your conversation with staff, maybe that’s what staff and you both thought. But when we got in front of the Council, which is the policy making committee, the REM committee, we believe that our interpretation of it is that it has a great deal to do with it. And those are the reasons that we made the amendments that we made and brought to you today. So if you have further discussion with that, we welcome whatever conversation you believe is appropriate to this motion that is on the floor at this time.

Chair McLain: I’m going to ask that the question be called, or if there is more discussion, let’s have it.

Mr. Irvine: Would you just restate the motion one last time?

Mr. Barrett: I think we are asking that the 65,000 tons for the three facilities in question be allocated immediately, and that we have a review of all of the tonnage caps in a year, and the time period would be October 2002; and that if changes were to be made, they would become effective July 1, 2003.

Chair McLain: That was the original motion, which was seconded by Jeff Murray. Any further conversation before we vote? I have been asked that you keep you hands up so that an accounting of the voting process can be recorded.

Mr. Gilbert: Would a no vote mean that the ordinance would stay the way you originally amended it?

Chair McLain: A no vote at this point – would mean it would go forward as we brought it to you today. A yes vote would mean that you have amended it to this one-year review. The REM committee has already changed the cap to 65,000 right now, with administrative review at 5% and a review in two years. You are voting on 65,000 tons right now, with a review in October of 2002, with implementation of that, if there were changes, in July 1, 2003.

Mr. Gilbert: And what would the timing of yours be?

Chair McLain: The timing of this says two years

Mr. Gilbert: That would be on the fiscal year?

Chair McLain: Right.

Mr. Winterhalter: Clarification. Because within that two years, the way your amendment reads, you can change the cap at any time.

Chair McLain: It still can, either way.

Mr. Leichner: I'm not a real strong believer in a no vote meaning yes.

Chair McLain: Okay, what you're voting on right now is the motion that is front of you. So, if you vote yes, you are voting on Lee's motion that you will have a review in one year, with an implementation date of July 1, 2003. That is the motion in front of us, and I have only one motion on the floor. So, at this point I'm going to ask people who want to vote on that one-year review – October 2002 with implementation of any knowledge that we discover in that review to be July 1, 2003, to please raise their hand.

AYE Vote (8 total)

David White
Merle Irvine
Mike Misovetz
Glenn Zimmerman,
Jeff Murray
Mike Leichner
Matt Korot
Lee Barrett

NAY Votes (4)

Mike Miller
Rick Winterhalter
Sara Chaplen
Vince Gilbert

ABSTAIN

Tanya Schaefer

Dean Kampfer

Chair McLain: The only other outstanding issue, and it is only outstanding if you want it to be, but I heard from some of you on the phone, when I called you this last week or two, that the inerts issue was something that you still wanted some clarity on. This is where it stands right now. You did make a motion to pass forward information, 15 (yes) to 2 (no) that you wanted what was being counted by the State to be what is counted for recyclable items. And that doesn't include the inerts. At the next meeting, and there is minutes to point this out, it was said that you want the inert issue to stay as it is until the committee completes its work and reports back to us on March 2002, to the Council. I want you to decide what to do with those two motions because they both came from your body and some of you think they are contradictory. I want to know what you want to do with those.

Mr. Vince Gilbert: First of all, I think that inerts is a too encompassing word. I mean if it's not biodegradeable, its inert. Does that mean all bottles, or windshield glass, or tiles, or everything that is not biodegradeable, is that what your talking about? Because the DEQ does count a bunch of those items in the recycling, so I think we need to not be so encompassing with the inerts. Therefore I think we should take it to the committee so that we can get more definition on what we're really talking about.

Mr. Petersen: I don't know if I have anything here to respond to. I heard also, from some of you in this committee that we ought to look at this issue of what is inerts, and put it to the committee before we put changes into the code.

Chair McLain: We said that the committee would give you an opportunity to review what the State definition is, and what we've used as a practical definition, and that's where we left it at that last meeting. So that's what we're thinking unless you are going to tell us something different.

Mr. Irvine: The ordinance that we have before us right now. Are they silent to the inert issue?

Mr. Petesen: No, I think there is what I call policy direction in there that says this committee is going to be set up, and their charge on behalf of the Council is to figure out a way to use this money to target high-priority materials, to be defined, what those high-priority materials. So, Merle, I think there is policy direction in here, but not the specifics that the committee would have to come up with on how we're going to implement it.

Mr. Winterhalter: I made the original motion, which was, materials not counted by DEQ. And I said immediately. And I think the clarification that came later was, could you go the six months until the committee made its definition. So, I think the issue is materials that do not count towards the recovery, and that begins in July 2002, and not immediately as my original motion stated.

Chair McLain: So what that does then is give the committee some time to work. Okay, so we're comfortable with that?

There was a consensus of the committee that they are comfortable with that decision.

Ms. Schaefer: Will the committee get an assessment in December on what the credits are for this fiscal year, since we are waiting on this (inaudible).

Mr. Petersen: We track those credits on a monthly basis. As soon as this committee starts to meet, we'll have every piece of data available to the committee.

Chair McLain: Okay, this is where we were at. It is 4:55 pm, we have voted on four amendments, we have reviewed the package of ordinances that you've been working on in August, September and October, we have a package of recommendations that are going to go forward to our REM committee that is meeting in two days. We're finished with that particular item on this agenda. What I would like to do before we adjourn is to give the courtesy of asking Mr. Atherton if he has any other comments or questions for the committee today as Chair of the REM committee, and then I'd like to ask the body if there are any other questions or issues you would like to see on the next agenda.

Councilor Atherton: Madam Chair at the beginning of the meeting, you asked for my comment or opinion on what we are doing. I've sat through this meeting and many others, and listened to (inaudible) on many issues. I sense a great discomfort on many questions, and some confusion with all of us. And if you sense that there is discomfort or confusion with me, you're getting the correct picture. I've tried to focus and learn about this issue here, very intensely over this past year. One of our key goals in our Strategic Plan was to try and simplify the system. To be more market based, allow competition. And I think that the work that we have done here moves in that direction. But I just wanted to ask you one question. Because maybe this is an epiphany that has happened to me here, and please don't anyone get upset about this. It comes from listening here to a number of questions, little nuggets of choice information that pop up here and there. For example, Vince Gilbert and Chris Taylor saying why do we have a distinction between wet and dry? And then Lee Barrett saying, what about incentives for source-separation. Then a comment from the hearing the other day, by Merle Irvine, that games were being played and that he understood it, and that he was even forced, even he, Merle Irvine was forced to reveal names. This is almost like the Lieutenant in the navy in 1944 that said the bridge is still standing, and they wired back to Eisenhower, that the planners were saying oh no we can't change the plan. And they said to hell with the plan, were going across that bridge. I just want to ask you a simple question: What if we were to count our wet and dry as tons in a prior percentage of recycling on the total tons, and then what goes to the dump, you pay a fee for. Those that are taken out of the wastestream, you have avoided costs.

Chair McLain: I'm going to stop you right there.

Councilor Atherton: I want to hear from people about this concept.

Chair McLain: This needs to be at the committee, okay. He's going to be at that REM committee, because that's one of the questions we've got on that first list, and it's turned into 5:00 o'clock. So, Bill, I really appreciate that comment, because I've heard, like you said, three

or four people who have really championed that thought. And so, we're going to give him a chance to work on that with him, at that committee level.

Councilor Atherton: Well, when you talk about committee level, we're talking about shaping the system here, we have created a system, and while I realize that I don't have your expertise or intelligence here, but it is more complex than what I like. And I'm just offering this scenario, that what if we had – just keep it simple, just the tons – wet, dry. That's what you're dealing with. We have a minimum, say 20% recycling, you get reimbursed for the avoided cost. We go to the scalehouse. The Metro scalehouse. This would provide, I think, an incentive for source-recycling. Because it would (inaudible). It simplifies administration enormously. There would be fewer games to be played. Our bonds are covered by the Regional System Fee. We passed that threshold – we've made that commitment that we will be doing that. And in fact, (inaudible) what we're going to do with Metro South and Central and try to have this extraordinarily complicated RFP that I see. You know while I was listening here, sometimes you hear a little Freudian slip, and everybody keeps saying bid. And that's what's happening. But if you bid, why not lease the facilities out and bid for the lease of that and have them play on the same level playing field as all the other facilities. I'm just telling you – maybe I've been driving in farm traffic too long this weekend, but that's what happened. Because I was troubled and needed to speak out about it and share that with you and ask that question.

Chair McLain: I'm going to call it a rhetorical question because first of all, you asked more than one question. I think you've got some great mosaic ideas there, and we will be taking up some of these ideas at the committee level as we get through some of the recycling. We want to simplify, and that's been a goal of Mr. Atherton and myself throughout the entire time that we've been with you this year. Again, we've got a package in front of us, we're going to be voting on this package at REM and at Council, and we will continue to add and refine and to simplify as much as we can some very difficult issues. There is nothing simple about the solid waste business and I don't think there is anything simple about the solid waste system that you run in your private businesses. So, I appreciate your comments.

Councilor Atherton: Well, they are more than comments. I'm asking a serious question.

Chair McLain: Do you want me to answer them, and if you do let's make it quick, it's already 5:05.

Mr. Vince Gilbert: I think it's a great idea, but I think it's going to take a lot of discussion. So if we want to set up a special SWAC to talk about it, I would be there.

Councilor Atherton: I just want to plant the seed.

Chair McLain: Okay, would anyone else care to respond?

There was no further discussion.

Chair McLain: Thank you for working through these hard issues, and we'll see you in one month. Meeting adjourned.

