



METRO

Agenda

MEETING: METRO COUNCIL
DATE: July 19, 2007
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. RECOGNITION OF THE UNITED STATES FISH AND WILDLIFE AGENTS AND US ATTORNEYS WHO SUPPORTED THE ENDANGERED SPECIES JUSTICE FUND Vecchio

4. CONSENT AGENDA

4.1 Consideration of Minutes for the July 12, 2007 Metro Council Regular Meeting.

5. ORDINANCES - SECOND READING

5.1 **Ordinance No. 07-1154**, For the Purpose of Amending the Regional Framework Plan and Chapter 3.01 of the Metro Code (Urban Growth Boundary and Urban Reserve Procedures) to Allow Consideration of Major Amendments to the UGB to Accommodate Need for Housing. Hosticka

5.2 **Ordinance No. 07-1157**, For the Purpose of Dissolving the Greenspaces Policy Advisory Committee (GPAC) and Repealing Metro Code Section 2.19.160. Bragdon

6. RESOLUTION

6.1 **Resolution No. 07-3829**, For the Purpose of Amending the 2006-09 Metropolitan Transportation Improvement Program (MTIP) to Add the Cornell Road and Science Park Drive/143rd Intersection Project and the Hall Boulevard and Highway 99W Intersection Project. Burkholder

7. CONTRACT REVIEW BOARD

7.1 Deliberation on Appeal by RPS-BER Ltd. of Chief Operating Officer's Rejection of Appeal regarding Contract RFP No. 07-1219-PKS for Property Acquisition Services

7.2 **Resolution No. 07-3828**, For the Purpose of Approving Change Order No. 9 Harrington to the Waste Disposal Services Contract.

8. CHIEF OPERATING OFFICER COMMUNICATION

9. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for July 19, 2007 Metro Council meeting

Clackamas, Multnomah and Washington counties, and Vancouver, Wash. Channel 11 -- Community Access Network www.tvctv.org -- (503) 629-8534 2 p.m. Thursday, July 19 (live)	Portland Channel 30 (CityNet 30) -- Portland Community Media www.pcmv.org -- (503) 288-1515 8:30 p.m. Sunday, July 22 2 p.m. Monday, July 23
Gresham Channel 30 -- MCTV www.mctv.org -- (503) 491-7636 2 p.m. Monday, July 23	Washington County Channel 30 -- TVC-TV www.tvctv.org -- (503) 629-8534 11 p.m. Saturday, July 21 11 p.m. Sunday, July 22 6 a.m. Tuesday, July 24 4 p.m. Wednesday, July 25
Oregon City, Gladstone Channel 28 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.	West Linn Channel 30 -- Willamette Falls Television www.wftvaccess.com -- (503) 650-0275 Call or visit website for program times.

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.

Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, (503) 797-1542. Public hearings are held on all ordinances second read and on resolutions upon request of the public. Documents for the record must be submitted to the Clerk of the Council to be considered included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Clerk of the Council. For additional information about testifying before the Metro Council please go to the Metro website www.metro-region.org and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

Agenda Item Number 4.1

Consideration of Minutes for the July 12, 2007 Metro Council Regular Meeting

Consent Agenda

Metro Council Meeting
Thursday, July 19, 2007
Metro Council Chamber

Agenda Item Number 5.1

Ordinance No. 07-1154, For the Purpose of Amending the Regional Framework Plan and Chapter 3.01 of the Metro Code (Urban Growth Boundary and Urban Reserve Procedures) to allow Consideration of Major Amendments to the UGB to Accommodate Need for Housing.

Second Reading

Metro Council Meeting
Thursday, July 19, 2007
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE)
REGIONAL FRAMEWORK PLAN AND) Ordinance No. 07-1154
CHAPTER 3.01 OF THE METRO CODE)
(URBAN GROWTH BOUNDARY AND)
URBAN RESERVE PROCEDURES) TO)
ALLOW CONSIDERATION OF MAJOR)
AMENDMENTS TO THE UGB TO) Introduced by Councilor Carl Hosticka
ACCOMMODATE NEED FOR HOUSING)

WHEREAS, the Regional Framework Plan (“RFP”) and Metro Code Chapter 3.01 (Urban Growth Boundary and Urban Reserves Procedures) authorize “major amendments” to the urban growth boundary (“UGB”) except during years in which Metro is determining the capacity of the UGB to accommodate long-term population and employment growth pursuant to ORS 197.299; and

WHEREAS, the Metro Council amended the RFP and Metro Code Chapter 3.01 to limit access to the major amendment process to proposed UGB amendments to add land for needs other than housing needs by Ordinance No. 01-929A (For the Purpose of Amending the Regional Framework Plan Ordinance No. 97-715B and Metro Code Sections 3.01.010, 3.01.025, 3.01.030, 3.01.035, 3.01.040, 3.01.045, 3.01.050, 3.01.055, 3.01.060, 3.01.065 and 3.07.1120 and Repealing Metro Code Sections 3.01.037 and 3.01.075 to Revise the Scope and the Criteria for Quasi-Judicial Amendments to the Urban Growth Boundary; and Declaring an Emergency) on December 13, 2001; and

WHEREAS, the Council determines the need for land for housing based upon a forecast of population growth which is necessarily based upon assumptions that may prove inaccurate over time, as has sometimes been Metro’s experience; and

WHEREAS, the “periodic review” process Metro must follow under state law to determine the capacity of the UGB to accommodate long-term need for land for housing is not responsive to unanticipated short-term changes in circumstances; and

WHEREAS, Metro should have a process to respond to unanticipated changes in the need for land for housing; now, therefore,

THE METRO COUNCIL HEREBY ORDAINS AS FOLLOWS:

1. The RFP is hereby amended as indicated in Exhibit A, attached and incorporated into this ordinance, to allow consideration of proposed “major amendments” to the UGB to accommodate need for land for housing.
2. Metro Code section 3.01.030 (Major Amendments – Criteria) is hereby amended as indicated in Exhibit B, attached and incorporated into this ordinance, to allow consideration of proposed “major amendments” to the UGB to accommodate need for land for housing.
3. The Findings of Fact and Conclusions of Law in Exhibit C, attached and incorporated into this ordinance, explain how these amendments to the RFP and the Metro code comply with regional and statewide planning laws.

ADOPTED by the Metro Council this __ day of _____, 2007.

David Bragdon, Council President

Attest:

Approved as to form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

Exhibit A to Ordinance No. 07-1154

Amendment to the Regional Framework Plan

1.9 Urban Growth Boundary

It is the policy of the Metro Council to:

- 1.9.1 Ensure that expansions of the UGB help achieve the objectives of the 2040 Growth Concept.
- 1.9.2 Determine when the UGB is expanded, whether the expansion will enhance the roles of Centers and, to the extent practicable, ensure that it does.
- 1.9.3 Use the regional UGB, a long-term planning tool, to separate urbanizable from rural land, based in aggregate on the region's 20-year projected need for urban land.
- 1.9.4 Locate the UGB consistent with statewide planning goals and this plan and adopted Metro Council procedures for UGB amendment.
- 1.9.5 Improve the functional value of the UGB in the location, amendment and management of the regional UGB, as described in policies 1.9.6, 1.9.7, 1.9.8, 1.9.9.
- 1.9.6 Expand the UGB first within any adopted urban reserves, upon demonstrating a need for additional urban land, to the extent consistent with ORS 197.298 and Metro's acknowledged urban growth amendment process.
- 1.9.7 Adopt criteria for amending the UGB based on applicable state planning goals and relevant policies of the this Plan:
 - a. Major Amendments: Amendments of the UGB may be made through a quasi-judicial or a legislative process. Metro will initiate the legislative amendment process when it determines there is need to add land to the UGB following the analysis of buildable land supply required every five years by ORS 197.299(1). The process involves local governments, special districts, citizens and other interests. A local government, a special district or a property owner may initiate a quasi-judicial amendment process to add land to the UGB for **[public facilities, public schools, natural areas and those nonhousing]** needs that (a) were not accommodated in the most recent analysis of land supply conducted pursuant to state law and (b) must be addressed prior to the next analysis.
 - b. Minor Adjustments: Minor adjustments of the UGB may be brought to Metro by a local government, a special district or a property owner for siting public facility lines and roads, for land trades and to make the UGB coterminous with nearby property lines or natural or built features in order to make the UGB function more efficiently and effectively.
- 1.9.8 Require cities and counties to adopt conceptual land use plans and concept maps coordinated among affected jurisdictions for all areas added to the UGB as Major or Legislative amendments.
- 1.9.9 Establish criteria for concept plans and implementing ordinances.

- 1.9.10 Prepare a report on the effect of the proposed amendment on existing residential neighborhoods prior to approving any amendment or amendments of the urban growth boundary in excess of 100 acres.
- 1.9.11 Provide copies of the completed report to all households located within one mile of the proposed urban growth boundary amendment area and to all cities and counties within the district. The report shall address:
- a. Traffic patterns and any resulting increase in traffic congestion, commute times and air quality.
 - b. Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory.
 - c. The cost impacts on existing residents of providing needed public services and public infrastructure to the area to be added.

Exhibit B to Ordinance No. 07-1154

Amendment to Metro Code Chapter 3.01 (Urban Growth Boundary and Urban Reserve Procedures)

3.01.030 Major Amendments - Criteria

(a) The purpose of the major amendment process is to provide a mechanism to address needs for land that were not anticipated in the last analysis of buildable land supply under ORS 197.299(1) and cannot wait until the next analysis. ~~Land may be added to the UGB under this section only for the following purposes: public facilities and services, public schools, natural areas, land trades and other non-housing needs.~~

(b) The applicant shall demonstrate that the proposed amendment to the UGB will provide for an orderly and efficient transition from rural to urban land use and complies with the criteria and factors in subsections (b), (c) and (d) of Section 3.01.020 of this chapter. The applicant shall also demonstrate that:

- (1) The proposed uses of the subject land would be compatible, or through measures can be made compatible, with uses of adjacent land;
- (2) The amendment will not result in the creation of an island of urban land outside the UGB or an island of rural land inside the UGB; and
- (3) If the amendment would add land for public school facilities, a conceptual school plan as described in Section 3.07.1120(I) has been completed.

(c) ~~If the Council incidentally adds land to the UGB for housing in order to facilitate a trade, the Council shall designate the land to allow an average density of at least 10 units per net developable acre or such other density that is consistent with the 2040 Growth Concept plan designation for the area.~~ **If the applicant proposes an amendment to the UGB to add land for housing, the applicant shall also demonstrate that the land proposed for addition to the UGB:**

(1) Can be developed at urban densities in a way that makes efficient use of existing and future public infrastructure investments;

(2) Can be served by public schools and other urban-level public facilities and services efficiently and cost-effectively by appropriate and financially capable service providers;

(3) Can be designed to be walkable and service by a well-connected system of streets by appropriate and financially capable service providers; and

(4) Can be designed to preserve and enhance natural ecological systems.

(d) If the applicant proposes to amend the UGB to add land for residential use, the applicant shall submit a written statement, adopted by the elected officials of the city or county likely to be responsible for land use planning of the land to be added to the UGB and from the elected officials of the boards of likely providers of public facilities and services, as defined in section 3.01.010 of this chapter, that they are willing to provide services to the land.

Exhibit C to Ordinance No. 07-1154
Findings of Fact and Conclusions of Law

(will be completed and adopted following hearings on the ordinance)

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 07-1154, FOR THE PURPOSE OF AMENDING THE REGIONAL FRAMEWORK PLAN AND CHAPTER 3.01 OF THE METRO CODE (URBAN GROWTH BOUNDARY AND URBAN RESERVE PROCEDURES) TO ALLOW CONSIDERATION OF MAJOR AMENDMENTS TO THE UGB TO ACCOMMODATE NEED FOR HOUSING

Date: May 24, 2007

Prepared by: Tim O'Brien
Senior Regional Planner

INTRODUCTION

State law directs the Metro Council to complete a periodic analysis of the capacity of the urban growth boundary (UGB) and the need to amend it to accommodate long-range growth in population and employment. The Metro Council determines the need for land for housing based upon a 20-year population forecast that is coordinated with affected local governments. Past regional forecasts have represented the most likely and reasonable “middle of the road” growth projections that are based on a framework of how the region has responded to historical trends – including economic, industry, demographic, and national and global forces at work in the region. A number of assumptions are included in the 20-year forecast that may prove inaccurate over time and the periodic review process is not always responsive to unanticipated short-term changes in circumstances. The proposed changes to the Regional Framework Plan (RFP) and Metro Code Section 3.01 will provide a process for Metro to respond to unanticipated changes in the need for land for housing in addition to other non-housing needs.

Ordinance 07-1154 proposes three key changes related to the UGB Major Amendment process. Adoption of this ordinance will:

1. Remove the prohibition, enacted in 2001, on UGB Major Amendment applications for residential use;
2. Add additional criteria for UGB Major Amendments for residential use; and
3. Require a written statement adopted by the elected officials of the jurisdiction responsible for land use planning of the land to be added to the UGB and from the elected officials of the boards of the likely urban service providers that they are willing to provide services to the land being brought into the UGB through the Major Amendment process.

BACKGROUND

The Metro Regional Framework Plan (RFP) and Metro Code Chapter 3.01 (Urban Growth Boundary and Urban Reserves Procedures) authorize amending the urban growth boundary (UGB) through a Major Amendment process. The purpose of the Major Amendment process is to provide a mechanism to address needs for land that were not anticipated in the last analysis of the buildable land supply under ORS 197.299 (1) and cannot wait until the next analysis. A city, county, special district or property owner may submit a Major Amendment application to Metro between February 1 and March 15 of each calendar year, except that calendar year in which the Metro Council is completing its analysis of the buildable land supply under ORS 197.299 (1). Currently, land may be added to the UGB under the Major Amendment process for the following purposes: public facilities and services, public schools, natural areas, land trades and other non-housing needs.

Existing Metro Code Requirements

Presently under the Major Amendment process, the applicant must meet the “need” and “locational factors” of Statewide Planning Goal 14: Urbanization, equivalent to Metro’s legislative amendment process. Briefly, the “need” criteria address:

- A demonstrated need to accommodate long-range urban population consistent with a 20-year forecast;
- A demonstrated need for land suitable to accommodate housing, employment opportunities and other uses such as public facilities, parks and schools; and
- A demonstration that the need cannot be reasonably accommodated on land already inside the UGB.

The “locational factors” criteria address:

- The efficient accommodation of the need;
- Orderly and economic provision of public facilities and services;
- Comparative environmental, energy, economic and social consequences; and
- The compatibility of the proposed urban use with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.

Proposed Additional Metro Code Requirements for Residential Major Amendments

In addition to the existing code requirements noted above, this ordinance would require an application for a Major Amendment for residential uses to address additional quantitative and qualitative criteria including a demonstration that the land proposed for addition to the UGB can meet the following:

- Can be developed at urban densities in a way that makes efficient use of existing and future public infrastructure investments;
- Can be served by public schools and other urban-level public facilities and services efficiently and cost-effectively by appropriate and financially capable service providers;
- Can be designed to be walkable and serviced by a well-connected system of streets by appropriate and financially capable service providers; and
- Can be designed to preserve and enhance natural ecological systems.

Finally, the applicant must also submit a written statement adopted by the elected officials of the jurisdiction responsible for land use planning of the land to be added to the UGB and from the elected officials of the boards of the likely urban service providers that they are willing to provide services to the land being brought into the UGB through the Major Amendment process.

The public hearing for any Major Amendment application is before a hearings officer. The hearings officer submits a proposed order and recommendation, with findings of fact and conclusions of law and the record of the hearing, for consideration by the Metro Council. The Council shall allow oral and written arguments by participants in the proceedings before the hearings officer. The Council shall adopt the proposed order and ordinance if the Council decides to expand the UGB, or revise or replace the findings and conclusions in a proposed order or remand the matter to the hearings officer. If the amendment is less than 100 acres the Council’s decision may be appealed to LUBA. If the amendment is over 100 acres the Council’s decision may be appealed to LCDC and then the Court of Appeals.

ANALYSIS/INFORMATION

Known Opposition: Staff is not aware of any formal statements of opposition, but it has come to staff’s attention that 1000 Friends of Oregon opposes this ordinance.

Legal Antecedents: The Metro Regional Framework Plan and Metro Code Chapter 3.01 (Urban Growth Boundary and Urban Reserves Procedures) authorize amending the urban growth boundary through a Major Amendment process.

Anticipated Effects: The adoption of Ordinance 07-1154 will provide the opportunity to amend the UGB for residential uses through the Major Amendment process. It is not possible to know how many applications will be received, if any, but Metro staff has responded to numerous inquiries since 2001, when the code was changed to eliminate housing from the Major Amendment process, regarding the possibility for adding residential land to the UGB through the Major Amendment process.

Budget Impacts: Under Metro Code 3.01 the applicant is required to submit a deposit with the application to cover staff time for processing the Major Amendment application. This deposit is also used to cover the cost of the hearings officer and notice requirements. The applicant will be billed for any costs beyond the initial deposit.

Due to the difficult nature of demonstrating “need” as defined by Goal 14 during the period between Metro’s analysis of the buildable land supply under ORS 197.299 (1) and the additional financial and qualitative design criteria that will need to be evaluated, considerable staff time will be necessary to process Major Amendment applications for residential uses.

The application processing time period for a Major Amendment is 40 calendar days. Due to this relatively short time period and the extensive amount of work necessary to evaluate the application, write the staff report, and coordinate the hearing before the hearings officer, it will be necessary to re-allocate some staff duties exclusively to this work in both the Long Range Planning and Data Resource Center sections of the Planning Department to meet the deadline.

If the proposed Major Amendment would add more than 100 acres to the UGB, Metro code requires staff to prepare a report on the effect of the proposed amendment on existing residential neighborhoods that addresses the following (per Metro Code Section 3.01.025(h)):

1. Traffic patterns and any resulting increase in traffic congestion, commute times and air quality;
2. Whether parks and open space protection in the area to be added will benefit existing residents of the district as well as future residents of the added territory; and
3. The cost impacts on existing residents of providing needed public facilities and services, police and fire services, public schools, emergency services and parks and open spaces.

As this additional report is a requirement Metro has imposed upon itself and is not part of the application requirements, the staff time to complete this report is not covered by the deposit submitted by the applicant.

In addition, if the proposed Major Amendment would add more than 100 acres to the UGB, Metro would have to submit the amendment to LCDC in the manner provided for periodic review, according to ORS 197.626. The deposit submitted by the applicant does not cover the time spent by staff completing this process.

It is not possible to specify the budget impact at this time. Redeployment of existing staff using currently budgeted resources will be feasible if we receive only a limited number of applications for major amendment. If a significant number are received, and particularly if several applications involve more than 100 acres, it is unlikely that the required work can be performed timely within existing resources. Should that occur, we would return to Council for direction to reduce or eliminate certain existing work or

authorization to increase resources, either temporary staff or purchased services, during the processing of the amendments.

Agenda Item Number 5.2

Ordinance No. 07-1157, For the Purpose of Dissolving the
Greenspaces Policy Advisory Committee (GPAC) and Repealing Metro
Code Section 2.19.160.

Second Reading

Metro Council Meeting
Thursday, July 19, 2007
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF DISSOLVING THE)
GREENSPACES POLICY ADVISORY)
COMMITTEE (GPAC) AND REPEALING)
METRO CODE SECTION 2.19.160)

ORDINANCE NO. 07-1157
Introduced by Council President David
Bragdon

WHEREAS, Metro's Greenspaces Policy Advisory Committee (GPAC) was formed on January 14, 2004 to provide consultation and advice to the Metro Council on regional park policy regarding Metro Council's Regional Framework Plan, Chapter 3 Nature in Neighborhoods - parks and greenspace issues, goals and funding, and in compliance with Title 13 Nature in Neighborhoods of the Metro Code Section 3.07 Urban Growth Management Functional Plan which concerns the provision of parks and open spaces region-wide;

WHEREAS, GPAC has completed work to define the vision of a region-wide system of parks, natural areas, trail, open spaces and recreation opportunities for the greater Portland-Vancouver region;

WHEREAS, as a result of that work, the GPAC Vision Statement was adopted by the Metro Council by Resolution No. 05-3581, For the Purpose of Council Adoption of Greenspaces Policy Advisory Committee Vision Statement adopted on May 5, 2005;

WHEREAS, this vision recognizes the importance of parks and recreation to the region's economy, tourist trade, air and water quality and the sense of place;

WHEREAS, the work of this committee has laid the groundwork to develop an integrated network of parks, greenspaces and trails that will serve the region, both now and in the future; and

WHEREAS, the Council is appreciative of the committee having fulfilled its purpose; now therefore

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the Metro Council hereby dissolves the Greenspaces Policy Advisory Committee; and
2. Metro Code Section 2.19.160 is hereby repealed:

~~“2.19.160 Greenspaces Policy Advisory Committee (GPAC)~~

~~(a) Purpose. The purpose of the Greenspaces Policy Advisory Committee (GPAC) is to provide consultation and advice to the Metro Council on regional park policy regarding:~~

~~Regional Framework Plan—Parks and Greenspaces Related Issues. In particular, GPAC will participate in development and implementation of policies related to Chapter 3 of the Regional Framework Plan, including but not limited to the recommendations contained in the~~

~~April 4, 2001, Final Report of the Parks Subcommittee
of the Metro Policy Advisory Committee.~~

~~The possible inclusion in the Regional Framework Plan of
additional or new policies related to the establishment,
protection and development of a regional system of
parks, natural areas, trails and greenspaces.~~

~~The development of goals and funding recommendations for all
public properties included in the regional parks system,
regardless of ownership.~~

~~Compliance with specific portions of Title 12 concerning the
provisions of parks and open space regionwide.~~

~~Other questions related to parks, natural areas, trails and
greenspaces that may be referred to this committee by
the Metro Council.~~

~~(b) MPAC Advice and Consultation. The purpose of the GPAC is
not to detract or interfere with the role of MPAC. Any issue that
requires MPAC advice or consultation will be referred to MPAC
prior to Metro Council action.~~

~~(c) Membership. The GPAC is composed of a total of 15 members,
all appointed by the Metro Council President subject to Council
confirmation. The Council President shall designate one (1)
member to serve as Chair. Seven (7) of the initial GPAC
Committee members shall be appointed to serve a one (1) year
term and may be reappointed for up to two (2) additional terms
as provided in Section 2.19.030.~~

~~(1) The GPAC Committee membership shall be as follows:~~

~~(A) One (1) member shall represent the largest City
in the region;~~

~~(B) One (1) member shall represent a park provider
located east of the Willamette River;~~

~~(C) One (1) member shall represent a park provider
located west of the Willamette River;~~

~~(D) One (1) member shall represent cities or park
districts in the eastern part of the region;~~

~~(E) One (1) member shall represent cities or park
districts in the central western part of the region;~~

~~(F) One (1) member shall represent cities or park
districts in the southern part of the region;~~

- ~~(G) — One (1) member shall represent cities or park districts in the western-most part of the region;~~
- ~~(H) — One (1) member shall represent cities or park districts in the southwest part the region;~~
- ~~(I) — One (1) member shall represent non-profit land trust organizations actively protecting land in the Metro Area;~~
- ~~(J) — One (1) member shall represent environmental groups active in parks and greenspaces related issues in the Metro Area;~~
- ~~(K) — Five (5) members shall be appointed at-large.”~~

ADOPTED by the Metro Council this _____ day of _____ 2007.

David Bragdon, Council President

Attest:

Approved as to Form:

Christina Billington, Recording Secretary

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 07- 1157, FOR THE PURPOSE OF DISLOVING THE GREENSPACES POLICY ADVISORY COMMITTEE (GPAC) AND REPEALING METRO CODE SECTION 2.19.160.

Date: June 14, 2007

Prepared by: Lydia M. Neill

BACKGROUND

Greenspaces Policy Advisory Committee (GPAC) was formed through the passage of Ordinance No. 04-1030, For the Purpose of Amending Section 2.19.160 of the Metro Code to Establish a Greenspaces Policy Advisory Committee; and Declaring an Emergency adopted on January 4, 2004, which created an advisory committee to provide consultation and advice to the Metro Council on regional park policy. Prior to the passage of Ordinance No. 04-1030 similar work was performed by the Greenspaces Technical Advisory Committee (GTAC) that was established by Resolution No. 90-1344, For the Purpose of Establishing a Technical Advisory Committee to Assist Metro Council in Coordinating the Metropolitan Greenspaces Program adopted on December 27, 1990. The work of GTAC was concluded in October 2002 shortly after GPAC was formed.

The GPAC Vision Statement was adopted by the Metro Council by Resolution No. 05-3581, For the Purpose of Council Adoption of Greenspaces Policy Advisory Committee Vision Statement adopted on May 5, 2005 to clearly articulate the importance of developing a region-wide system of parks, natural areas, trails and open spaces. The vision also described the value of parks, open spaces and trails to the economy, the need to preserve natural areas for wildlife habitat and the value to the region's air and water supplies.

GPAC has been instrumental in laying the groundwork to establish a integrated network of parks, open spaces and trails to serve our growing region. The committee has also provided the necessary work to market this system to the public and begin discussions on both completing construction of the network and maintaining the resources that the region has invested in parks and open spaces. Implementation of this vision will be pursued by inter-agency cooperation and a series of short-term task forces rather than a standing committee.

ANALYSIS/INFORMATION

1. **Known Opposition-** None.
2. **Legal Antecedents-** GPAC was formed on January 4, 2004 by Ordinance No. 04-1030. Ordinance No. 05-1077C, For the Purpose of Amending the Regional Framework Plan Relating to Nature in Neighborhoods adopted on September 29, 2005 and the Regional Framework Plan, Chapter 3 Nature in Neighborhoods.
3. **Anticipated Effects-** By approving Ordinance No. 07- 1157, the Metro Council will shift implementation of the Greenspaces Vision to short-term implementation task forces rather than a standing committee.
4. **Budget Impacts-** This action will allow FTE to be shifted from the extensive requirements of staffing a standing committee (GPAC) to short-term task forces. After completion of the task force work the

FTE will be shifted to implement the recommendations of the task force as approved by the Metro Council.

RECOMMENDED ACTION

Staff recommends that the Council adopt Ordinance No. 07-1157 to dissolve GPAC and repeal Metro Code section 2.19.160.

Agenda Item Number 6.1

Resolution No. 07-3829, For the Purpose of Amending the 2006-09 Metropolitan Transportation Improvement Program (MTIP) to Add the Cornell Road and Science Park Drive/143rd Intersection Project and the Hall Boulevard and Highway 99W Intersection Project.

Metro Council Meeting
Thursday, July 19, 2007
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING THE 2006-09 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM (MTIP) TO ADD THE CORNELL ROAD AND SCIENCE PARK DRIVE/143 RD INTERSECTION PROJECT AND THE HALL BOULEVARD AND HIGHWAY 99W INTERSECTION PROJECT)	RESOLUTION NO. 07-3829
)	
)	Introduced by Councilor Rex Burkholder
)	
)	
)	
)	

WHEREAS, the Metropolitan Transportation Improvement Program (MTIP) prioritizes projects from the Regional Transportation Plan to receive transportation related funding; and

WHEREAS, the Joint Policy Advisory Committee on Transportation (JPACT) and the Metro Council must approve the MTIP and any subsequent amendments to add new projects to the MTIP; and

WHEREAS, the JPACT and the Metro Council approved the 2006-09 MTIP on August 18, 2005; and

WHEREAS, the Oregon Economic Development Department in conjunction with the Oregon Department of Transportation has approved \$1,000,000 in funding for intersection improvements at Cornell Road and Science Park Drive and 143rd Avenue; and

WHEREAS, the Oregon Department of Transportation has approved \$750,000 in funding to match \$5,500,000 in local funding for intersection improvements at Hall Boulevard and Highway 99W; and

WHEREAS, this is a new transportation project requiring amendment into the Metropolitan Transportation Improvement Program prior to these funds being made available to the project; and

WHEREAS, the project has been determined in conformity with the State Implementation Plan for air quality per federal regulations; and

WHEREAS, these projects are consistent with the Regional Transportation Plan; now therefore

BE IT RESOLVED that the Metro Council hereby adopts the recommendation of JPACT to add the Cornell Road and Science Park Drive/143rd intersection project and the Hall Boulevard and Highway 99W intersection project to the 2006-09 Metropolitan Transportation Improvement Program.

ADOPTED by the Metro Council this 19th day of July 2007.

David Bragdon, Council President

Approved as to Form:

Daniel B. Cooper, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3829, FOR THE PURPOSE OF AMENDING THE 2006-09 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM (MTIP) TO ADD THE CORNELL ROAD AND SCIENCE PARK DRIVE/143RD INTERSECTION PROJECT AND THE HALL BOULEVARD AND HIGHWAY 99W INTERSECTION PROJECT

Date: July 2, 2007

Prepared by: Ted Leybold

BACKGROUND

The Oregon Department of Transportation (ODOT), in conjunction with the Oregon Economic Development Department has awarded Immediate Opportunity Funds (IOF) to Washington County for the Cornell Road: Science Park Drive and 143rd Avenue intersections project. ODOT has also awarded funding to Washington County for the Hall Boulevard and Highway 99W intersection project near downtown Tigard. To be eligible to receive these funds, the projects must be included in the Metropolitan and State Transportation Improvement Programs (TIP).

To be included in the TIP, the projects must be consistent with the Regional Transportation Plan, fiscal constraint of the TIP must be maintained, and air quality conformity of the TIP as amended with the new projects must be established.

The projects are included in and consistent with the Regional Transportation Plan. The funding committed to the projects represents new funding from those used to establish fiscal constraint of the TIP. The additional costs associated with the projects are offset by the new revenues and therefore, fiscal constraint of the TIP is maintained.

Conformity with the State Implementation Plan for air quality must be established prior to inclusion in the TIP. Conformity is established through consultation with the Transportation Policy Alternatives Committee (TPAC) and federal and state agencies involved in transportation and air quality issues: Federal Highway Administration, Federal Transit Administration, Environmental Protection Agency, Oregon Department of Environmental Quality, and the Oregon Department of Transportation. Air quality conformity analysis has been submitted to the state and federal air quality agencies and TPAC for consultation. TPAC approved finding of conformity at its June 29, 2007 meeting. Results from the consultation with state and federal agencies are expected by July 9th unless substantial comments require additional time to address.

This resolution would approve amending the 2006-09 Metropolitan Transportation Improvement Program to add the Cornell Road and Science Park Drive/143rd intersection project and the Hall Boulevard and Highway 99W intersection project.

ANALYSIS/INFORMATION

1. **Known Opposition** None known at this time.

2. **Legal Antecedents** Amends the 2006-09 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 05-3606 on August 18, 2005 (For the Purpose of Approving the 2006-09 Metropolitan Transportation Improvement Program for the Portland Metropolitan Area).
3. **Anticipated Effects** Adoption of this resolution will make available transportation funding to Washington County for the Cornell Road and Science Park Drive/143rd intersection project and the Hall Boulevard and Highway 99W intersection project.
4. **Budget Impacts** None.

RECOMMENDED ACTION

Approve Metro Resolution No. 07-3829.

Agenda Item Number 7.2

Resolution No. 07-3828, For the Purpose of Approving Change Order
No. 9 to the Waste Disposal Services Contract.

Contract Review Board

Metro Council Meeting
Thursday, July 19, 2007
Metro Council Chamber

BEFORE THE METRO CONTRACT REVIEW BOARD

FOR THE PURPOSE OF APPROVING) RESOLUTION NO 07-3828
CHANGE ORDER NO. 9 TO THE WASTE)
DISPOSAL SERVICES CONTRACT) Introduced by Chief Operating Officer Michael J.
) Jordan, with the concurrence of Council President
) David Bragdon

WHEREAS, as described in the accompanying staff report, Metro and the Contractor wish to amend certain terms and payment provisions, and to resolve other differences concerning the current Waste Disposal Services Contract; and

WHEREAS, Metro will incur substantial financial savings over the life of the Contract, should Change Order No. 9 be executed; and

WHEREAS, The Chief Operating Officer, having considered the matter, has forwarded it to the Council for approval; now, therefore,

BE IT RESOLVED:

That the Metro Council, sitting as the Metro Contract Review Board, authorizes the Chief Operating Officer to execute Contract Change Order No. 9 to the Waste Disposal Services Contract in a form substantially similar to that of attached Exhibit "A."

ADOPTED by the Metro Council this _____ day of July 2007.

David Bragdon, Council President

APPROVED AS TO FORM:

Daniel B. Cooper, Metro Attorney

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MODIFICATION TO THE CONTRACT BETWEEN METRO AND WASTE
MANAGEMENT DISPOSAL SERVICES OF OREGON, INC.
(dba OREGON WASTE SYSTEMS, INC.)
ENTITLED
“WASTE DISPOSAL SERVICES”

This Contract Change Order No. 9, dated as of the last signature date below, hereby amends Metro Contract No. 900607, entitled “Waste Disposal Services,” dated April 11, 1988, including all prior amendments or change orders.

RECITALS

1. Metro and Waste Management Disposal Services Of Oregon, Inc. (“WMDS”) are parties to Metro Contract Number 900607, and other amendments or change orders (“the Waste Disposal Services Agreement” or “Agreement”).
2. On or about April 27, 1999, Metro and WMDS entered into Change Order No. 8 (“CO8”) amending certain terms and conditions contained in the Agreement. CO8 provides in Paragraph 2.b the rates WMDS shall charge for its services under the Agreement. Paragraph 4b of CO8 provided that Metro would undertake an independent study of rates in the Pacific Northwest to determine the “Market Rate” (as defined in Paragraph 4.a.ii of CO8). Section 4.b provided that if the Market Rate as of December 31, 2004, was equal to or greater than 10 percent less than the Metro Rate (as defined in Paragraph 4.a.i. of CO8), then effective July 1, 2005, the Base Rate (as defined in Paragraph 4.a.iii of CO8) would be reduced to 90 percent of the Metro Rate in effect as of December 31, 2004, and the term of the Agreement would be extended to 2019.
3. A question has arisen whether a contract between Kitsap County and an affiliate of WMDS (the “Kitsap Contract”) should be considered as a comparable contract for the purpose of determining the Market Rate under CO8.
4. In exchange for the promises and other consideration set forth in the Waste Disposal Services Agreement and in this Contract Change Order No. 9, and in order to resolve the question, and fully reserving all other rights which the parties may have under the Waste Disposal Services Agreement, the parties hereby agree as follows:

A. Purpose

The purpose of this Contract Change Order No. 9 is to amend certain terms, conditions and payment provisions of the Waste Disposal Services Agreement and to incorporate therein other mutually agreed provisions.

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B. Provisions of Contract Change Order

1. Extension of Agreement Term until December 31, 2019

The term of the Agreement is extended until December 31, 2019. To facilitate the extension this Contract Change Order No. 9 makes the following amendments: The provisions of the Contract Forms document entitled “Contract” made and entered into by and between Metro and Oregon Waste Systems, Inc., dated April 11, 1988, are amended to delete the date “December 31, 2009” and replace it with the date “December 31, 2019.” In addition, the provisions contained in the Proposal of Oregon Waste Systems, Inc. dated December 21, 1987, under the heading “Start of Disposal Operation and Contract Completion Time (the provisions of which having been incorporated into the Waste Disposal Services Agreement under Article 1B.(4) of the General Conditions of the Contract Documents), are deleted and superseded by this Contract Change Order No. 9. In addition, the provisions contained in the second paragraph, beginning at the fourth sentence and following to the end of the paragraph in the Contract Document entitled “Invitation to Bid” are deleted and superseded by this Contract Change Order No. 9. Finally, Section B(1) of CO8 is amended to delete the date “December 31, 2014” and replace it with the date December 31, 2019.

Paragraph 4 (e) of CO 8 is amended to delete the phrase “[i]n the event that, as a result of the rate comparisons made by Metro under this Contract Change Order, the term of this Waste Disposal Services Agreement is extended to December 31, 2019, then” from the first sentence of the paragraph. Paragraph 4(e) shall now read:

“On or about January 10, 2015 Metro shall undertake to perform a final comparison of the Metro Rate in effect as of December 31, 2014 with the Market Rate in effect as of that same date.”

2. No Rate Comparison in 2010

Paragraph 4(c) and (d) of CO8 shall be deleted in their entirety. Metro shall not be entitled to perform a comparison of the Metro Rate in effect as of December 31, 2009 with the Market Rate in effect as of December 31, 2009.

3. Putrescible Waste

Paragraph 4(a)(ii) of CO8 is amended to provide as follows:

“The term ‘Market Rate’ shall mean the lowest per ton putrescible solid waste disposal rate, exclusive of any applicable regulatory fees, charged to any public body, including but not limited to any state, county, city, district, solid waste authority or other similar

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unit of government, that delivers or causes to be delivered for disposal during each of calendar year 2012, 2013 and 2014 at least 200,000 tons of putrescible solid waste under a contract containing a term of at least 10 years in any landfill in Oregon, Washington or Idaho that is owned or controlled by Contractor, Waste Management Holdings Incorporated, Waste Management Incorporated, Waste Management of North America, Inc. or any of their respective corporate parents or corporate subsidiaries whether in existence at the time of this Contract Change Order or later created. In calculating the Market Rate under this section, only putrescible waste generated within the contracting public body's jurisdiction shall count towards the requirement that a comparable contract be with a public body that delivers for disposal at least 200,000 tons of putrescible solid waste per year under a contract containing a term of at least 10 years. In the event that any such public body has entered into an agreement for landfill disposal which combines the costs of such disposal with any cost not related to such disposal, including but not limited to the collection, transfer or transportation of such solid waste, the Contractor shall demonstrate the amount of the public body's actual per ton costs for disposal of such waste.

Paragraph 4(a)(iv) shall be added to CO8 providing the following definition of putrescible solid waste:

“The term ‘putrescible solid waste’ shall be defined as waste containing rapidly decomposable material by microorganisms, which may give rise to foul smelling, offensive products during such decomposition or which is capable of attracting or providing food for birds and potential disease vectors such as rodents and flies. A load of waste shall be considered putrescible solid waste in its entirety if it contains more than a trivial amount of putrescible solid waste. “Special Waste” as defined in Section 14 of the Specifications of the Agreement is excluded from this definition of putrescible solid waste. Notwithstanding any other definitions, for the purposes of the Agreement and all Change Orders and amendments to the Agreement, any putrescible solid waste that remains after processing at a solid waste facility, including but not limited to processing for the removal of re-useable or recyclable materials, shall be included in this definition of putrescible solid waste.

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4. Kitsap Contract Not to be considered for future Rate Comparisons

The Kitsap County, Washington contract (“Kitsap Contract”) shall not be considered for the 2014 Final Rate Comparison provided in Section 4(e) of CO8, or any other rate comparison if the Agreement is extended beyond December 31, 2019.

5. Amendment of Payment Provisions

Paragraph 2(b) of CO8 is deleted and replaced with the following:

Effective July 1, 2007, for each ton of Metro Solid Waste Tonnage which Metro delivers, or authorizes to be delivered directly quarterly to Contractor, Metro shall pay Contractor an amount equivalent to the per ton price produced by applying the following declining incremental price schedule to the total quarterly Regional Solid Waste Tonnage:

<u>If Quarterly Regional Solid Waste Tonnage is:</u>	<u>The Price per Ton for the Metro Solid Waste Tonnage Included in such Tonnage shall be:</u>
0 to 137,500 tons	\$24.84 per ton
137,501 to 148,125 tons	\$11.28 per ton
148,126 to 158,750 tons	\$10.69 per ton
158,751 to 169,375 tons	\$10.11 per ton
169,376 to 180,000 tons	\$9.53 per ton
180,001 to 190,625 tons	\$8.94 per ton
Above 190,625 tons	\$8.34 per ton

These rates shall be subject to adjustment under Paragraph 3 of CO8 and Article 19B of the Agreement, as amended, for the Contract Price Adjustments occurring on July 1, 2008 and July 1, 2009.

Metro shall receive an additional rate reduction, calculated by subtracting ninety three cents (\$0.93) per ton from each rate tier in effect as of July 1, 2009. The rates thus established shall be effective July 1, 2010, and shall be subject to adjustment under Paragraph 3 of CO8 and Article 19B of the Agreement, as amended, beginning with the Contract Price Adjustment occurring on July 1, 2011 and continuing through the Contract Price Adjustments on each July 1 thereafter.

Except as otherwise provided in this section, Metro agrees to release and discharge WMDS from any claim, liability or further rate reduction arising from or under the Initial Rate Comparison provision in Paragraph 4 (b) of CO8.

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5A. Correction of CO8 Inflation Provisions

The Inflation Adjustment formula set forth in Paragraph 3b of CO 8 is corrected and amended to read as follows:

“AI = (((CI_X – CI_B) / CI_B) x 0.7) – 0.005), with the terms of the formula modified so that CI_X represents the amount of the Consumer Price Index for the calendar year ending each December 31, and CI_B represents the Consumer Price Index for the calendar year which precedes the year used to calculate CI_X”

The Inflation Adjustment formula set forth in Paragraph 3c of CO 8 is corrected and amended to read as follows:

“AI = (((CI_X – CI_B) / CI_B) x 0.9) – 0.005), with the terms of the formula modified so that CI_X represents the amount of the Consumer Price Index for the calendar year ending each December 31, and CI_B represents the Consumer Price Index for the calendar year which precedes the year used to calculate CI_X”

6. Comparable Contracts for Rate Review

WMDS shall provide to Metro a list of all putrescible solid waste disposal contracts between a public body and WMDS and any affiliated companies in the states of Oregon, Washington, and Idaho for the 2014 Final Rate Comparison and any subsequent rate review if the Agreement is extended beyond December 31, 2019.

7. Ninety Percent Guarantee

Paragraph 5(a) of CO8 shall be amended to delete the term “acceptable waste”, which is replaced with the term “putrescible solid waste” so it shall read:

“Each calendar year, Metro agrees to deliver to Contractor’s disposal site or to landfills owned or operated by Contractor, Waste Management Holdings, Incorporated, Waste Management Incorporated, Waste Management of North America, Inc. or any of their respective corporate parents or corporate subsidiaries, whether in existence at the time of this Change Order or later created, a minimum of 90 percent of the total tons of putrescible solid waste that Metro delivers to any general purpose landfill during the calendar year.”

The following definitions shall apply to Paragraph 5(a) of CO8.

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The phrase "Metro delivers" shall mean the disposition of putrescible solid waste that Metro delivers or causes to be delivered from solid waste facilities owned by Metro, or that Metro directs to be delivered to any General Purpose Landfill under its licensing, franchising or flow control authority.

"Putrescible Solid Waste" shall have the meaning set forth in Paragraph 3 to this Change Order No. 9.

8. Release From Damages For Any Default Under 90 Percent Guarantee

WMDS agrees to release and forever discharge Metro from any damages accruing before June 30, 2007, for any default under the 90 percent guarantee provided for in Section 5(a) of CO8.

9. No Other Modifications

Except as modified herein, all other terms and conditions of the original Agreement and all other previous amendments or change orders shall remain in full force and effect. Any material conflict between the provisions of the original Agreement, and other previous amendments or change orders, on the one hand, and this Contract Change Order No. 9 on the other hand, shall be resolved by reference to and reliance upon this Contract Change Order No. 9.

WASTE MANAGEMENT DISPOSAL
SERVICES OF OREGON, INC.

METRO

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

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STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 07-3828 FOR THE PURPOSE OF APPROVING CHANGE ORDER NO. 9 TO THE WASTE DISPOSAL SERVICES CONTRACT

Date: July 19, 2007

Prepared by: Douglas Anderson

PROPOSED ACTION

Adopt Resolution No. 07-3828 authorizing the Chief Operating Officer to execute Change Order No. 9 to the Waste Disposal Services Contract between Metro and Waste Management Disposal Services (doing business as Oregon Waste Systems, Inc.).

BACKGROUND

Metro's waste disposal contract includes provisions to ensure that Metro's disposal rates will remain competitive over the life of the contract. The contract defines the "market rate" to be *the lowest per-ton disposal price charged to any public body under a comparable contract at any landfill owned by Waste Management in Oregon, Washington or Idaho.*

The contract establishes a procedure for determining whether Metro's rates remain at market. In broad outline, that procedure involves a "Market Rate Comparison" every five years—in 2004, 2009, and 2014—in which Metro (a) identifies the public contracts that qualify for comparison, and then (b) compares the terms of each qualifying contract with Metro's prevailing rate.

The contract specifies that Metro will receive certain rate reductions if any qualifying contract rate is 5 percent or more below Metro's rate. The contract further stipulates that Waste Management will receive a 5-year contract extension if the rate reduction is 10 percent. (Waste Management is eligible for only one five-year extension, however.)

After the 2004 market rate comparison, a question arose between Metro and Waste Management whether a certain contract with another public body qualified for inclusion in the Market Rate Comparison. The parties resolved this question, together with other ancillary issues, in a mediated settlement that is formalized by Change Order No. 9.

The Elements of Change Order No. 9

1. Effective July 1, 2007, Metro will receive a reduction of 45¢ per ton from the rate that would otherwise have been charged for disposal at Columbia Ridge Landfill.
2. In lieu of the Market Rate Comparison of 2009, Metro will receive an additional reduction of 93¢ per ton, effective July 1, 2010. In addition, Waste Management will forego the annual inflation adjustment that would normally have taken effect on July 1, 2010.
3. Metro releases and discharges Waste Management from any claim, liability or further rate reductions arising from the 2004 Market Rate Comparison.
4. The contract is extended five years, to December 31, 2019.
5. The public contract that triggered the present contract question will not be considered in the 2014 Market Rate Comparison.

6. The contract language that led to the present question is amended for clarity in future Market Rate Comparisons.
7. Contract language that defines Metro's waste flow guarantee is aligned with the amendments to the Market Rate Comparison language for clarity, and to avoid future disputes over the type of solid waste that is subject to the flow guarantee.
8. Waste Management releases and discharges Metro from any damages that might have arisen from questions over compliance with the flow guarantee in the past.

INFORMATION/ANALYSIS

1. **Known Opposition.** There is no known opposition.
2. **Legal Antecedents.** Any major change to a significant contract, such as Change Order No. 9 to the Waste Disposal Services contract, requires an authorizing resolution of the Council.
3. **Anticipated Effects:** Change Order No. 9 will result in savings of approximately \$260,000 per year from costs that would otherwise have been charged for disposal at Columbia Ridge Landfill through FY 2009-10. The savings beyond FY 2009-10 depend on assumptions about tonnage, market rates, the results of future Market Rate Comparisons, and the conditions for extending the contract to 2019, absent approval of Change Order No. 9. Staff has estimated the savings during the last decade of the contract to average an additional \$80,000 per year over the \$260,000 already realized, for a total savings of approximately \$4 million from July 1, 2007 through December 2019.
4. **Budget Impacts.** Unless the Metro Council adopts a mid-year rate adjustment and/or amends the FY 2007-08 Solid Waste & Recycling budget, the cost savings during the next fiscal year will accrue to the Solid Waste Fund balance. After FY 2007-08, the savings will result in lower disposal charges at the Metro transfer stations—although, of course, the Council will retain the budgetary discretion to increase other expenditures that offset the disposal savings and leave the tip fee unchanged, all else equal.

RECOMMENDATION

The Chief Operating Officer recommends adoption of Resolution No. 07-3828.