

A G E N D A

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METRO

Agenda

MEETING: METRO COUNCIL REGULAR MEETING
DATE: October 18, 2001
DAY: Thursday
TIME: 2:00 PM
PLACE: Metro Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. EXECUTIVE OFFICER COMMUNICATIONS

4. AUDITOR COMMUNICATIONS

5. MPAC COMMUNICATIONS

6. CONSENT AGENDA

6.1 Consideration of Minutes for the October 4, 2001 Metro Council Regular Meeting.

7. ORDINANCES - SECOND READING

7.1 **Ordinance No. 01-920**, For the Purpose of Considering the Application of Recycle America for a Metro Solid Waste Regional Transfer Station Franchise. Solid Waste & Recycling Com.

7.2 **Ordinance No. 01-921**, Amending the FY 2001-02 Budget and Appropriations Schedule by Transferring Appropriations from Contingency to Operating Expenses in the Administrative Services Department within the Support Services Fund to Implement GASB 34. McLain

8. RESOLUTION

8.1 **Resolution No. 01-3113**, For the Purpose of Approving Metro Capital Asset Management Policies. Atherton

9. COUNCILOR COMMUNICATION

ADJOURN

Cable Schedule for Week of October 18, 2001

	Sunday (10/21)	Monday (10/22)	Tuesday (10/23)	Wednesday (10/24)	Thursday (10/18)	Friday (10/19)	Saturday (10/20)
CHANNEL 11 (Community Access Network) (most of Portland area)						2:00 PM	
CHANNEL 21 (TVCA) (Washington Co., Lake Oswego, Wilsonville)	7:00 P.M.	1:00 AM		7:00 P.M.			
CHANNEL 30 (TVCA) (NE Washington Co. - people in Wash. Co. who get Portland TCI)	7:00 P.M.	1:00 A.M.		7:00 P.M.			
CHANNEL 30 (CityNet 30) (most of City of Portland)		2:00 PM					
CHANNEL 30 (West Linn Cable Access) (West Linn, Rivergrove, Lake Oswego)	4:30 P.M. (previous meeting)	6:30 P.M. (previous meeting)	10:30 PM. (previous meeting)		9:00 A.M.. (previous meeting)	11:30 A.M. (previous meeting)	1:00 P.M. (previous meeting)
CHANNEL 33 (ATT Consumer Svcs.) (Milwaukie)	4:00 P.M. (previous meeting)					10:00 P.M. (previous meeting)	9:00 A.M. (previous meeting)

PLEASE NOTE THAT ALL SHOWING TIMES ARE TENTATIVE BASED ON THE INDIVIDUAL CABLE COMPANIES' SCHEDULES. PLEASE CALL THEM OR CHECK THEIR WEB SITES TO CONFIRM SHOWING TIMES.

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<i>West Linn Cable Access</i>	www.ci.west-linn.or.us/CommunityServices/htmls/wltvsked.htm	<i>(503) 722-3424</i>
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Agenda items may not be considered in the exact order. For questions about the agenda, call Clerk of the Council, Chris Billington, 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 email, fax or mail or in person to the Clerk of the Council. For assistance per the American Disabilities Act (ADA), dial TDD 797-1804 or 797-1540 (Council Office).

Agenda Item Number 6.1

Consideration of the October 4, 2001 Regular Metro Council Meeting minutes.

Metro Council Meeting
Thursday, October 18, 2001
Metro Council Chamber

MINUTES OF THE METRO COUNCIL MEETING

October 4, 2001

Metro Council Chamber

Councilors Present: David Bragdon (Presiding Officer), Susan McLain, Rod Park, Bill Atherton, Rod Monroe, Carl Hosticka, Rex Burkholder

Presiding Officer Bragdon convened the Regular Council Meeting at 2:02 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

There were none.

3. HOUSEHOLD HAZARDOUS WASTE COMMUNITY COLLECTION UPDATE

Ms. Vicki Kolberg, Regional Environmental Management Public Affairs Program Supervisor, spoke to the Household Hazardous Waste Conference held in Portland and the goals of the Regional Environmental Management Department concerning this issue. **Ms. Lisa Heigh, Associate Public Affairs**, presented a power point presentation on 2001 Household Hazardous Waste Roundup Education and Collection Program (a copy of which may be found in the meeting record). She spoke to the program focus on social marketing, behavior changes and goals.

Councilor Atherton noted that he had a meeting about household electrical products such as televisions. The gentlemen made a strong point that by year's 2006-2007 a new type of television would come into being and old televisions would no longer be viable. They foresaw possible huge influxes into the landfills of these old televisions. He also encouraged gardening without pesticides and talked about the agricultural practices of ancient Chinese.

Councilor Park asked about the active ingredient of the collections.

Ms. Heigh said they don't keep track of this.

Councilor Park said he thought it was important to note because the general public usually didn't have products with high toxicity.

Ms. Heigh said EPA had a role in testing chemicals and a few had been taken off the market. They tried not to scare people but to education them.

Ms. Kolberg said they also recognized that licensed practitioners used products cautiously. They encouraged people to be aware and motivated to focus on the health and safety of their families, the information provided choices.

Councilor Park said the concern he had was that the majority of the chemicals that were being looked at that were available to general public were safer than table salt. He appreciated the work they were doing but expressed concern about possible misperceptions.

Councilor McLain said at both of the county fairs the natural gardening information was a hot item. She encouraged ongoing networking and appreciated the REM Department's efforts.

Councilor Burkholder asked if the roundups were planned for places away from transfer stations.

Ms. Kolberg responded that they went to sites that were under-served. They were looking at the schedule for next year's events right now.

Councilor Burkholder said neighborhoods were a good receptacle for receiving these materials.

Ms. Kolberg said she thought that neighborhood associations were good target areas.

Councilor Atherton asked about programs reducing toxicity in the streams.

Ms. Heigh said USGS handled water toxicity but there was no way this program could currently handle water toxicity. She noted the new pesticide tracking law that included a farm component and a retail component.

Councilor Park spoke to the pesticide reporting law. He said the law was currently heavy on rural and soft on urban.

4. EXECUTIVE OFFICER COMMUNICATIONS

There were none.

5. AUDITOR COMMUNICATIONS

There were none.

6. MPAC COMMUNICATIONS

Presiding Officer Bragdon announced that the next MPAC meeting would be October 10th.

7. CONSENT AGENDA

7.1 Consideration of minutes of the September 27, 2001 Regular Council Meeting.

Motion: **Councilor Burkholder** moved to adopt the meeting minutes of the September 27, 2001, Regular Council meeting.

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

8. ORDINANCES - FIRST READING

8.1 **Ordinance No. 01-920**, For the Purpose of Considering the Application of Recycle America for a Metro Solid Waste Regional Transfer Station Franchise.

Presiding Officer Bragdon assigned Ordinance No. 01-920 to the Solid Waste and Recycling Committee.

8.2 Ordinance No. 01-921, Amending the FY 2001-02 Budget and Appropriations Schedule by Transferring Appropriations from Contingency to Operating Expenses in the Administrative Services Department within the Support Services Fund to Implement GASB 34.

Presiding Officer Bragdon assigned Ordinance No. 01-921 to the Budget and Finance Committee.

9. RESOLUTIONS - QUASI-JUDICIAL PROCEEDING

9.1 Resolution No. 01-3108, For the Purpose of Expressing Intent to Amend the Urban Growth Boundary for Major Amendment Case 01-3; City of Wilsonville.

Presiding Officer Bragdon asked Mr. Dan Cooper, General Counsel, to provide council with the rules of the quasi-judicial proceeding.

Mr. Cooper said the proceeding was established by the Metro Code and state law. He explained the process for the proceeding and noted that the council's decision had to be based on the evidence provided by Mr. Larry Epstein. He spoke to ex-parte contact and told the council that they must disclose if they had been contacted. He explained the rules for the proceeding.

Councilor Atherton asked about violation of rules.

Mr. Cooper responded that this could lead to future litigation.

Mr. Ray Valone, said that there were some minor changes in the staff report. He spoke to where the property was and the procedures that were followed for the public hearing. He then introduced Mr. Epstein, Hearings Officer.

Mr. Larry Epstein, Hearings Officer, presented his report, noted the standards and rules and then provided his findings, recommendations and conclusions (a copy of which may be found in the meeting record). He spoke to Mr. Darren Pennington's objections. Mr. Epstein responded to those objections and provided his conclusions.

Presiding Officer Bragdon noted the two parties who would be allowed to speak according to the rules of the quasi-judicial proceedings.

Councilor Atherton declared an ex-parte contact by participating in a tour with the City of Wilsonville's officials. He had visited the Coffee Creek facility but at no time had he discuss the Urban Growth Boundary (UGB) amendment.

Councilor McLain said she had an opportunity to visit the site as well and had seen it while it was being considered as an urban reserve site.

Councilors Hosticka, Monroe, Park and Presiding Officer Bragdon also disclosed that they were on the Wilsonville tour but had not discussed the UGB amendment.

Councilor McLain asked Mr. Epstein about his conclusion concerning urban services, how had he balanced his comments and the conclusions he came to.

Mr. Epstein said he normally did this based on the need that was established.

Mr. Darren Pennington, 10365 SW Day Road, Sherwood, OR 97140, also a member of MCCI, spoke to the exception he took to Mr. Epstein's report. The first was over the reliance on the super-siting legislation. He felt that super-siting was over. The second argument against the hearing officers' findings, and the original application, suggested that even if the prison deserved to be in the UGB, the Day Road part of the application didn't. He felt that the City of Wilsonville was not acting on behalf of the Department of Corrections, but in their own interest, as the DOC did not require expansion. The super-siting language itself stated that the existence of a public service provided complex shall not be a consideration in support of, or in opposition to, an application for a land use decision, limited decision, or expedited land division under ORS Chapter 1-97. He asked if the UGB expansion was considered a permit, a license, or a certificate necessary for construction and operation of the women's prison. He felt the answer was no as it was already to open. He said that Wilsonville was being compensated for services that the city provided for the prison. He felt that the Urban Reserve 42 area was a better choice for the City of Wilsonville to include as they had already committed to providing services to that area. Also, the area already had water and sewer under it and was a shorter distance from the City to the prison.

Councilor McLain spoke to Mr. Pennington's objections, which were basic compact form and the shorter distance of Urban Reserve 42.

Mr. Pennington responded that it was three things: urban services were there, it was surrounded by an area that the city said they would provide urban services to on both sides, and it was closer to the existing city boundary and the facility.

Councilor Atherton spoke to the cherry stem of Day Road and asked that he sight Metro Code that required that kind of connection.

Mr. Pennington said the only code was to avoid the island.

Councilor Atherton repeated it was to avoid the island, then asked if it didn't say prohibit?

Mr. Pennington said that he thought it prohibited island UGB expansion.

Presiding Officer Bragdon said that Mr. Cooper could clarify the code and asked the council to confine questions to Mr. Pennington to his exceptions.

Mr. Robert Hoffman, City Planner, City of Wilsonville, 30000 Town Center Loop East, Wilsonville, OR 97070 said this was a very unique situation and the Metro Code wasn't designed to deal with an existing situation. He said that the prison already had sewer, water, and road access provided by the City of Wilsonville. It was under a contract with the state, under the super-siting authority. The city submitted the application, DOC signed the application, and authorized the city to represent them. He said that in the city's opinion, Day Road was the appropriate connection, and they could not consider anything else because it was the major connection to I-5. He said that the first hearing that the city would have on the annexation would be on Monday night, October 8, 2001.

Mr. Michael Kohlhoff, City Attorney, City of Wilsonville, 30000 Town Center Loop East, Wilsonville, OR 97070, said that the DOC authorized the application. He felt that Mr. Epstein was a capable hearings officer who took all the steps, and was fully advised in the issues. He concurred with what Mr. Cooper had indicated about the record.

Councilor McLain asked Mr. Epstein about his conclusion about the urban services and facilities provided. She asked if he felt that they were best provided through the Day Road connection.

Mr. Epstein said they were provided, he did not specify if this was the best option or not.

Councilor McLain asked him if he was in any way saying that this was the best connection.

Mr. Epstein replied that he had not directly said that, but he had considered whether the UGB amendment, including the Day Road extension, complied with the standards. He did not consider whether some other connection with the city might be better.

Presiding Officer Bragdon said that Mr. Cox was not a party of the case, but would be allowed to request to testify.

Mr. William Cox, 0244 SW California St., Portland, OR 97219, said he was an attorney and he represented the bulk of the 345 acres that were subject of another application before the Council for an Urban Growth Boundary amendment, which was essentially the old URSA 42 plus the prison. He believed they were parties. He said that he respected Mr. Epstein, but understood that he stated that the records in both hearings would be intermingled. He said that 119 acres of the 345 parcel was the actual prison. His purpose in being there was to request that the "apple" be put back together. He felt that there should never have been a bifurcation of the two processes. He said they were running into opposition from the staff only based on the question of need.

Presiding Officer Bragdon interrupted Mr. Cox as he was getting into substance.

Mr. Cooper said Mr. Cox wanted to make the point to delay. Mr. Cooper stated that Mr. Cox was not a party. Mr. Epstein had advised Mr. Cooper that he did not consider Mr. Cox having appeared in this case because he had a separate case still pending.

Presiding Officer Bragdon asked Mr. Cooper to clarify Mr. Cox's appearance before the council.

Mr. Cooper said that Mr. Cox was not eligible to speak on the substance of the exception before the council.

Presiding Officer Bragdon said that on that advice Mr. Cox could not speak further. He thanked him for understanding the procedures.

Councilor Atherton said that Mr. Cox had said that Mr. Epstein had stated at a public hearing that the two were intermingled. He asked Mr. Epstein if he did make that statement.

Mr. Epstein said that what Mr. Cox said was not correct. There were two cases he considered that night. The Wilsonville case was the first case and dealt with the prison site and the Day Road connection. The second case, clients that Mr. Cox represents, included old URSA 42 and the prison site. At the second hearing, when the testimony started to be repetitious about what was said during the first hearing, he said that he would include the record and all of the testimony from the first hearing in the second hearing, so that nobody had to repeat anything that was said during the first hearing. He did merge the records, but only for the second case. He did not include in the record for the first case testimony from the second case – it went only one way.

Presiding Officer Bragdon said they would now go to council discussion and said a motion could be made at that point.

Motion: **Councilor Park** moved to adopt Resolution No. 01-3108.

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

Councilor Park said this was an interesting situation. The issues before the council were pressed upon them by the State. The recommendation appeared to meet the legal requirements. He noted the cherry stem and it being a legal tool of the Land Conservation Development Commission (LCDC), he did not see that as being a detriment to the argument.

Councilor McLain expressed her concern. In looking at the report, Mr. Epstein had to make some choices, looking at both efficiency and services. She felt comparison was necessary. She said that if she voted yes today she thought it was within her rights to suggest where the hearings officer's report should be improved.

Mr. Cooper said one choice that council had was to ask for the preparation of modified findings. That would take a majority vote of the council and a motion. If there was an amendment to the motion in front of them made, that was specific enough for Mr. Epstein or Mr. Cooper to understand the details, they might be able to do that. He cautioned that he felt Mr. Epstein had done as good a job as he could in trying to prepare the finding.

Councilor McLain said that all Mr. Epstein's report said was that services "can" be provided. Her feeling was, after hearing the exception, that there was sufficient reason to uphold an objection based on the terminology "can be provided."

Mr. Cooper said what the council was looking at was the ultimate conclusions. It was important to review the facts and findings, and the summary of his conclusions.

Councilor McLain said she had read page 9 also, so she read his description as well as the summary. She said she supported the cherry stem, and she wanted to support the best one that would truly meet the criteria. She felt that what she saw on pages 9 and 10, and the conclusion on page 15, showed that some comparisons needed to be made, otherwise how could he prove his point?

Mr. Epstein responded citing conclusions 3 and 4 to best address Councilor McLain's concerns. What he tried to do was to recite the language in the law. He spoke to Conclusion 3 and the urban services Wilsonville provided on Day Road. He said there was no reason to include the cherry stem in the Urban Growth Boundary except to make the connection to the prison, so it was the prison that was driving the decision. In regards to Conclusion 4, there was no adjacent urban land whether it was Garden Acres Road or Day Road, it was rural land on both sides, and located outside the city.

Councilor McLain said she would accept Mr. Epstein's and Mr. Cooper's wisdom on whether it matters. She noted that the City of Wilsonville chose Day Road because it was a connection to I-5.

Mr. Epstein said the City of Wilsonville started out with the super siting legislation. The City of Wilsonville said super siting required Metro to approve this request. When he got the materials and saw that, he contacted Metro staff and said that he didn't think that worked. Maybe the super

siting legislation was enough but Metro had to address their own standards. He thought this petition suffered somewhat from an early false start that relied on the super siting legislation too much and didn't rely enough on the facts that would be responsive to Metro's Code. By the time the record was closed, there were more facts in the record. There were sufficient facts in the record to make the findings that he made support the findings in the recommendation he had given the council. There weren't a lot more facts that he could rely on.

Councilor Hosticka asked Mr. Cooper if the Council had to agree with all of the conclusions of the Hearings Officer in order to vote yes or conversely by voting yes did that imply that the council agreed with all of the conclusions of the hearings officer.

Mr. Cooper said Councilor Hosticka was asking a mix of legal and political questions. The result was one that had to be defended if challenged through the appeal process. The findings and the conclusions were the ones that Mr. Epstein would recommend to the council as creating a justification for the decision that would be upheld. Politically, the council may not agree with each and every single statement therein but want to vote yes for their own independent reasons and they were permitted to do that. This was a collective decision of the Metro Council. The normal process was that the department brought the council a finished product that they thought was defensible and could be upheld in court. This was why they used professional hearings officers who had a lot of experience in this arena. The Council was free to ask for changes in the findings and conclusions to more reflect a better statement. In doing so in this case the council would have to limit their conclusions and findings to the facts in the record and that was what the hearings officer had done. The Council couldn't start voting for findings that the Council might prefer unless they were supported by the evidence that was in the record which had been looked at by the hearings officer.

Councilor Hosticka said part of the question was answered in that this was still a political process not strictly a judicial process.

Mr. Cooper responded that it was a quasi-judicial process.

Councilor Hosticka asked to enlighten them about what the super siting statutes said with regard to the UGB. He presumed that siting the facility was one thing but the decision before the Metro Council was not to site the facility, the decision before the council was to amend the UGB.

Mr. Epstein responded that the statute said nothing about UGB amendments. The statute said, "within the authority of the city, county or political subdivision, each city, county and political subdivision shall issue the appropriate permits, licenses and certificates including all necessary construction permits over public rights-of-way and enter into any intergovernmental agreements as may be necessary for the construction and operation of the complex". The question that was posed by this was whether a UGB amendment was a license, permit or certificate and whether it was necessary for the operation and construction of the complex. He was not sure that it was. If the Council wanted to delete any reference to the super siting legislation, he suggested deleting finding 22 and conclusion 8 of his recommended findings and conclusions.

Councilor Burkholder said he would like to think about this in terms of future activity regarding major amendments. What he saw here was a very unusual situation outside the urban growth boundary with a prison being sited on it. Now the council had to say what they did with it. He expressed concerns with the cherry stem issue in terms of future major amendments requests that the Council got that might be able to be used as a precedent that was set in this case and be applied in the future. He did not want the council to make a decision where in the future people

could come in and say the council had done this before. It seemed like the prison existed already without a UGB amendment. It would continue to exist into the future and eventually the orderly progression of UGB expansions would encompass it in a way that it didn't raise these troubling issues in his mind. He was leaning against supporting this recommendation.

Councilor Park asked Mr. Cooper for clarification. He spoke to Goal 14, extending urban services outside of an urban area. Since super siting didn't exactly address this particular issue and provide urban services he would assume that the Council would have to comply with other state land use laws and goals. He thought to be consistent with these laws and goals the prison would need to be brought into the UGB.

Mr. Cooper responded that this decision was confined to this record and the exception that was in front of the Council. A general discussion of Goal 14, as may be applied in other areas of the region and other facts, was not necessarily the appropriate thing to consider here. They had discussions in the past as to whether Goal 14 required a contiguous Urban Growth Boundary or whether islands could exist. The UGB currently had two separated islands. Forest Grove/Cornelius and Wilsonville were not connected to the rest of the urban growth boundary. The discussion of whether or not the council might legislatively make a third island some place else in the region in the future was one that they were continuing to look at. What was important to note was that the Metro Code said for major amendment application, islands may not be created in major amendments. That prohibition against islands did not exist in the legislative section of the Code. So the Goal 14 discussion aside, here in this major amendment application there was a prohibition against the creation of an island of urban land. The hearings officer had noted that cherry stems did exist in the region and around the state. This was why his findings on the cherry stem reflected the difference between a true island and an island with a cherry stem which was really a peninsula.

Councilor Park thanked Mr. Cooper for his clarification.

Councilor Atherton asked about the issue of the cherry stem and Wilsonville's request for economic gain. He asked if approving this established a precedent for other communities to create a cherry stem for economic gain. Did this legitimize the process?

Presiding Officer Bragdon summarized the resolution by saying that the resolution before the council was to direct findings and endorse the hearings officer's interpretation of the Code as it existed today. This was what council's conversation should be confined to. He thought policy discussions about cherry stems and criteria for major amendments was a healthy discussion to have, in fact, they were having that discussion in other forms where that discussion was appropriate but this proceeding was not the place for that policy discussion.

Mr. Cooper said the concept of precedent was how he wanted to respond. That was a concept in the legal arena, in general judges believed and practiced the following of precedence. So a judicial decision by a higher court was viewed by lower courts as a binding precedent on their decision if the judge found that it was because he thought this case was just like the case that had been decided before. In this arena UGB amendments were unique. Every single case had a different set of facts and the applications of the criteria to the facts of the application were probably distinguishable in themselves. So that no future council that didn't want to follow a previous council's decision regarding whether or not it was the cherry stem issue or any other issue that was in discussion was not going to be legally bound to do so.

Councilor Atherton thanked Mr. Cooper for answering the question.

Presiding Officer Bragdon said he thought they should pursue the policy question.

Councilor McLain said to the motion, her questions at the beginning were on the findings because she always wanted to have the finest of findings. She was going to support the resolution based on page 12. She would be voting yes. The question was the land need identified couldn't be reasonably accommodated within the current UGB. That was where she was going to go. There had been a state agency and a statewide search. This application was based on Metro's criteria, did it meet their individual Code issues? She had been assured by the hearings officer that it did. In reviewing it, he said it met the minimum and that was all the criteria asked him to question.

Presiding Officer Bragdon said he would be voting yes, the hearings officer outlined the seven factors that were at issue under the Code and outlined clearly how those factors were met in this case. The exception that was taken was addressed through the rebuttal.

Councilor Park spoke to the criteria on major amendments. The Code did address that particular part of the issue so he would be voting yes and urged council support.

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

10. RESOLUTIONS

10.1 **Resolution No. 01-3109**, For the Purpose of Interpreting Metro Ordinance No. 99-809 Amending the Urban Growth Boundary.

Motion: **Councilor McLain** moved to adopt Resolution No. 01-3109.

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

Councilor McLain said the purpose of this resolution was to interpret a previous ordinance and the conditions of Ordinance No. 99-809. In that ordinance they added approximately 354 acres of exception land to the UGB, known as Urban Reserve Study Area 55, in Washington County south of the City of Hillsboro. In the conditions that they made in that ordinance they asked that a particular set of planning would go along with it so that they would do a master plan. There were some conditions that had stopped the school district from going forward with some appropriate planning and building for their school system. She noted the whereas clauses which included many of the issues such as transportation systems as well as school systems and what was necessary in the present for the Council to make sure that it was OK for the school to be able to go forward with their plans. She suggested that there were school bonds that were passed by the voters and if they wanted to make sure that those school bonds could be used we needed to let the school get on with their work. She suggested that they were interpreting what the council had said in their previous ordinance in 1999. They were not stopping appropriate work by the school district, they were simply trying to make sure that the conditions that they felt were necessary for some of the planning was going to be addressed.

Presiding Officer Bragdon opened a public hearing.

Major Tom Hughes, City of Hillsboro, 2722 SE Hollyhock Court, Hillsboro, OR 07123 thanked the council for bringing this issue forward as quickly as possible.

Mr. Carlos Perez, Hillsboro School District and **Ms. Valerie Counts**, City of Hillsboro chose not to add any comments.

Presiding Officer Bragdon closed a public hearing and noted a letter from Mr. Lawrence Derr that had been placed in the record (a copy of which may be found in the meeting record).

Councilor McLain concluded by saying that what they got out of this vote today was a new school site and a connection to a road that was important to the north south connections in Hillsboro. Good public facilities would be provided with the passage of this resolution.

Councilor Atherton asked about Mr. Derr's objection.

Mr. Cooper responded that the letter from Mr. Derr on behalf of CAIG was explaining why they had opposed and appealed the Area 55 UGB amendments. Their appeal was based on the transportation deficiencies. He had stated specifically that he did not object to the resolution that was before the council today.

Presiding Officer Bragdon summarized Mr. Derr's letter.

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

11. COUNCILOR COMMUNICATION

Councilor Atherton spoke to hazardous waste and tracking of waterways. He suggested an inexpensive water testing kit and the quality of it results. He would be researching this for possible future education.

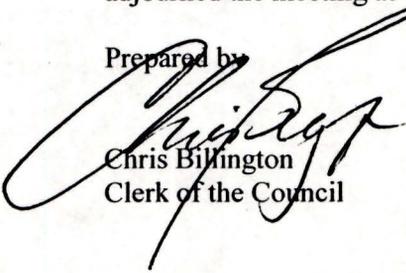
Councilor Hosticka said the maps for resource areas for Goal 5 were made available in quad form that showed property ownership, if any councilor would like particular quad areas they were currently available.

Councilor Park announced that, on the basis of the compliance and extensions requests Metro had been receiving, he was scheduling a special Community Planning meeting on Tuesday, October 30th in the afternoon. He would let the council know what time. Then staff would come back to Community Planning on November 6th with their recommendations. They would have public testimony at that time. They would then have final recommendations at the Community Planning meeting on November 20th. Then they would like to have this issue scheduled for discussion at MPAC at November 28th. With the approval of Presiding Officer the recommendations could be considered at the December 6th Council meeting and a decision made on extensions, conditions and perhaps an exceptions process.

12. ADJOURN

There being no further business to come before the Metro Council, Presiding Officer Bragdon adjourned the meeting at 4:05 p.m.

Prepared by


Chris Billington
Clerk of the Council

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF OCTOBER 4, 2001

TOPIC	DOCUMENT DATE	DOCUMENT DESCRIPTION	DOCUMENT NUMBER
COUNCIL MINUTES	092701	MINUTES OF THE SEPTEMBER 27, 2001 METRO COUNCIL MEETING	100401c-01
HOUSEHOLD HAZARDOUS WASTE ROUNDUP INFORMATION	OCTOBER 1, 2001	REM'S 2001 HOUSEHOLD HAZARDOUS WASTE ROUNDUP EDUCATION AND COLLECTION PROGRAM	100401c-02
UPDATE STAFF REPORT ON RES. NO 01-3108	10/4/01	STAFF REPORT FOR THE PURPOSE OF EXPRESSING COUNCIL INTENT TO AMEND THE UGB FOR MAJOR AMENDMENT CASE 01-3; CITY OF WILSONVILLE, RESOLUTION NO. 01-3108	100401c-03
LETTER	10/3/01	LETTER TO METRO COUNCIL FROM LARRY DERR CONCERNING RESOLUTION NO. 01-3109	100401c-04

Agenda Item Number 7.1

Ordinance No. 01-920, For the Purpose of Considering the Application of Recycle America for a Metro Solid Waste Regional Transfer Station Franchise.

Second Reading

Metro Council Meeting
Thursday, October 18, 2001
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONSIDERING THE)	ORDINANCE NO. 01-920
APPLICATION OF RECYCLE AMERICA FOR A)	
METRO SOLID WASTE REGIONAL TRANSFER)	Introduced by Mike Burton,
STATION FRANCHISE)	Executive Officer

WHEREAS, Recycle America has applied under the provisions of Code chapter 5.01 for a Solid Waste Facility Franchise to operate a regional transfer station; and

WHEREAS, the Executive Officer has found that, although Recycle America is qualified to operate a regional transfer station and that Recycle America would be likely to comply with all other applicable regulatory requirements, Recycle America has not sufficiently shown that granting it such authority would be consistent with the Regional Solid Waste Management Plan or that the proposed franchise would meet all of the requirements of Metro Code section 5.01.060; and

WHEREAS, the Executive Officer has recommended denial of the application and has forwarded that recommendation to the Council; and

WHEREAS, we have reviewed Recycle America's application, the report from the staff of the Regional Environmental Management Department, and the recommendation of the Executive Officer; and

WHEREAS, we have considered all of the criteria we are required to consider as provided in Metro Code section 5.01.070; and

WHEREAS, we find that the applicant has demonstrated that granting its proposal would result in lower net system costs, that it would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood, and the strong likelihood that it will comply with all applicable laws, rules, requirements, and standards pertaining to its proposed facility; and

WHEREAS, applicants for new regional transfer stations must demonstrate consistency with the Regional Solid Waste Management Plan, including a demonstration that the new authorization will provide a net benefit to the region; and

WHEREAS, important elements of net benefit include, but are not limited to, whether service in certain areas of the region deemed to be "underserved" will be improved, whether vehicles carrying solid waste will be likely to use the nearest transfer station, whether there will be a net system cost reduction that will be passed on to the region's ratepayers, and whether material recovery operations in the region will be preserved and enhanced; and

WHEREAS, the applicant has failed to sufficiently demonstrate that all of these elements would be satisfied if the requested franchise were to be granted; and

WHEREAS, we conclude, on balance, that granting this application will not result in a net benefit to the region and that, therefore, it would not be consistent with the Regional Solid Waste Management Plan; now therefore,

THE METRO COUNCIL RESOLVES AS FOLLOWS:

The application of Recycle America for a solid waste facility franchise to operate a regional transfer station is hereby denied.

ADOPTED by the Metro Council this ____ day of _____, 2001.

David Bragdon, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

**EXECUTIVE SUMMARY
ORDINANCE NO. 01-920**

**FOR THE PURPOSE OF CONSIDERING THE APPLICATION OF RECYCLE AMERICA FOR
A METRO SOLID WASTE REGIONAL TRANSFER STATION FRANCHISE**

PROPOSED ACTION

Approval of Ordinance No. 01-920 will deny Recycle America's application for authorization to operate as a regional transfer station. Recycle America is presently franchised as a local transfer station and material recovery facility. Approval of this ordinance will not change Recycle America's current status or obligate it to take on more responsibilities.

WHY NECESSARY

Recycle America has submitted a regional transfer station application for Council consideration. The Council must make a decision within 120 days (by October 26) or a franchise will be granted automatically.

DESCRIPTION

Recycle America is located at 869 NW Eastwind Drive, Portland, Oregon (Metro District 1) and has been operating as a franchised local transfer station and material recovery facility since December, 1998. Approval of Resolution 01-920 will deny authority for Recycle America to operate as a regional transfer station.

ISSUES/CONCERNS

The applicant has not demonstrated a sufficiently certain, large or equitably distributed net benefit to the system if authorization to operate as an uncapped regional transfer station is granted. Specifically, there is insufficient evidence that materials recovery will be significantly enhanced, cross-hauling by affiliated hauling companies may offset potential VMT savings in underserved areas, transportation savings are unlikely to be fully reflected in reduced collection rates, the public investment in Metro South and Central may not be sufficiently protected, and there is a likelihood of disruption of the regional solid waste system.

BUDGET/FINANCIAL IMPACTS

The budget impact for FY 2001 - 2002 on Metro if the Council were to grant Recycle America's application would be between \$350,000 and \$600,000, assuming operation as an uncapped regional transfer station commenced on January 1, 2002. The loss in excise tax revenue for the same period would be between \$10,000 and \$20,000. Metro tip fees would rise as a result of its revenues declining more than its costs with a large shift in tonnage to Recycle America.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 01-920, FOR THE PURPOSE OF CONSIDERING THE APPLICATION OF RECYCLE AMERICA FOR A METRO SOLID WASTE REGIONAL TRANSFER STATION FRANCHISE

Date: September 17, 2001

Presented by: Terry Petersen

BRIEF DESCRIPTION OF ORDINANCE

Waste Management of Oregon, Inc. presently operates the Recycle America facility under Metro authorization as a local transfer station and material recovery facility (SW Franchise No. F-001-99). Recycle America is located in Troutdale, within Metro Council District 1 (see Map 1 for location). In addition to its authorization to operate as a local transfer station, Recycle America is also franchised to direct-haul solid waste to the Columbia Ridge Landfill but is restricted to delivering no more than 50,000 tons of solid waste annually to solid waste disposal sites. Council approval of Ordinance No. 01-920 will deny Waste Management's request for a regional transfer station franchise at Recycle America. The primary effect of this action would be to retain the facility status in the current Recycle America franchise. This ordinance would not obligate Recycle America to perform additional functions required of regional transfer stations under Metro Code Section 5.01.125(d)¹.



Entrance to Recycle America

EXISTING LAW

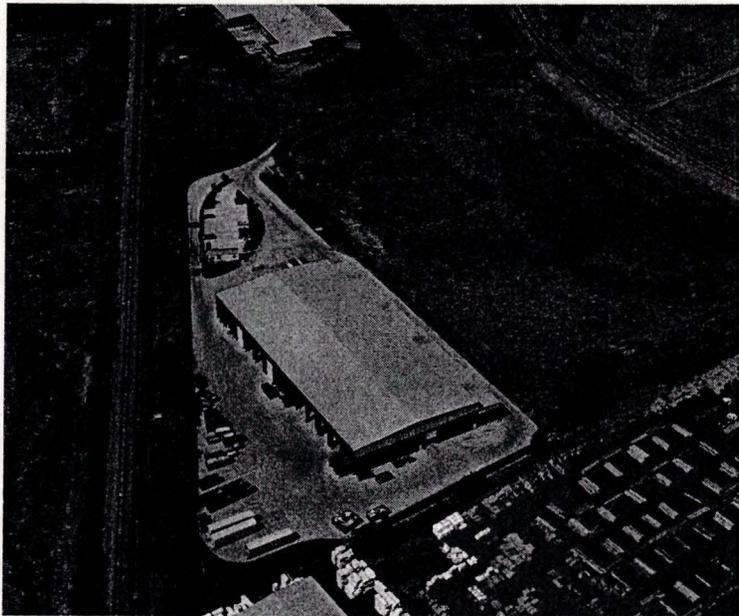
Metro Code Section 5.01.045(c) requires a Metro franchise to operate a regional transfer station. Only the Metro Council can approve solid waste facility franchises [Metro Code 5.01.070(a)] and the decision to approve or deny is made following an investigation and recommendation by the Executive Officer [Metro Code 5.01.070(b)].

¹ The functions required in Section 5.01.125(d) are to accept all public customers, provide free public drop-off of source separated recyclables, and accommodate periodic Metro-sponsored household hazardous waste collection events.

BACKGROUND

Recycle America's application follows a change in Metro policy to allow consideration of additional, privately owned regional transfer stations within the region. Columbia Environmental has also submitted a regional transfer station application, but it has been deemed incomplete pending the applicant's acquisition of local land use approval from the City of Portland and a permit from the Oregon Department of Environmental Quality.

Recycle America's application has been evaluated against the backdrop of the Metro Code, the Regional Solid Waste Management Plan (RSWMP) and Metro policies in place at the time of the submittal. However, many of the policy choices, laws and regulations surrounding private transfer stations are currently under consideration by the Metro Council. The result of these decisions may affect the Council's final balancing of whether or not to issue a franchise to Recycle America at this time.

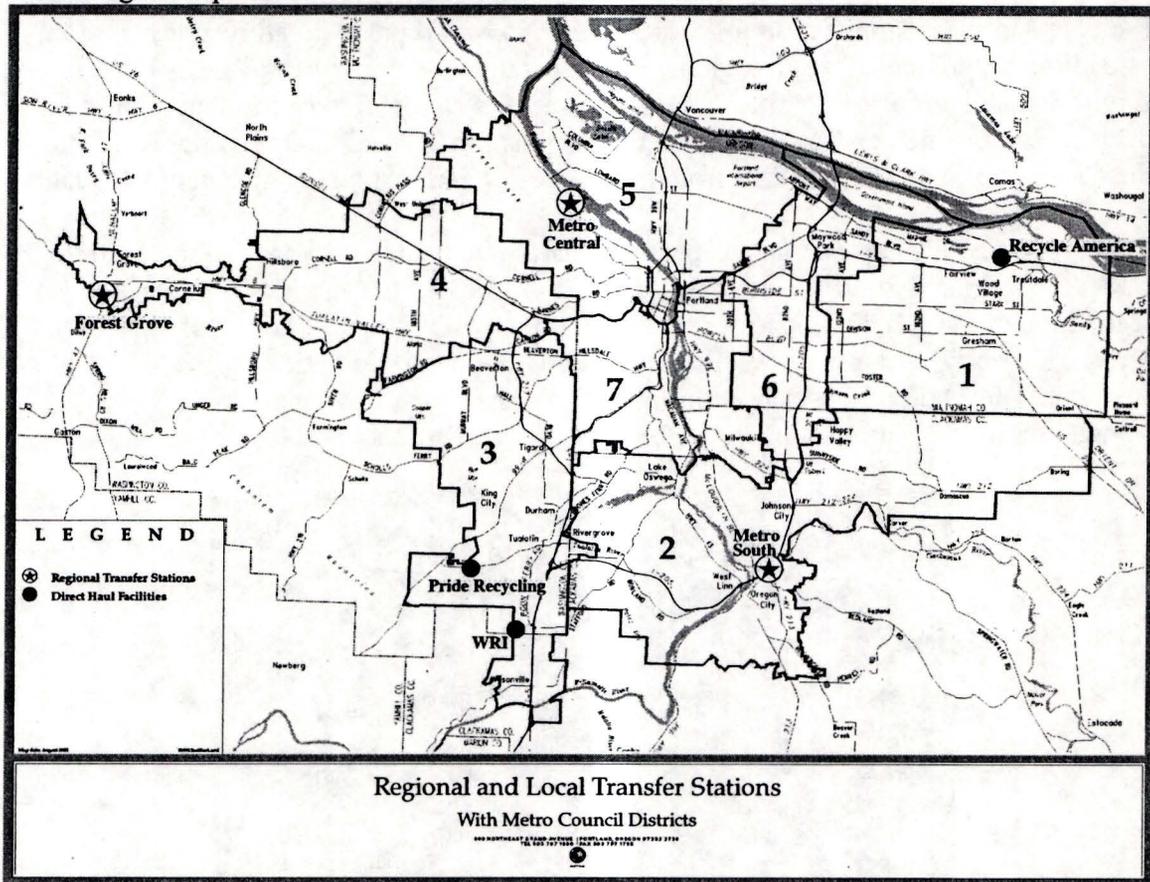


Aerial View of Recycle America

Changes to the Regional Solid Waste Management Plan (RSWMP) and the Metro Code

The regional solid waste system and the solid waste industry have changed considerably since the RSWMP was first approved in 1995. In 2000, Metro established a framework to consider expanding the existing solid waste transfer and disposal system. The current system includes two public and one privately owned regional transfer stations; three local transfer stations; two dry waste material recovery facilities; and two nearby dry waste landfills. There also are numerous other specialized processing, composting and reload operations throughout the region. Additional transfer facilities are located in Clark County, Washington and are used to process some solid waste generated within the Metro region. Other general and limited purpose landfills are found throughout Oregon and

Washington and serve as disposal destinations for solid waste generated within the Metro region. The following map locates the primary facilities where waste generated in the Metro region is processed or transferred:



Map 1: Major Metro Solid Waste Facilities

The Metro Council amended Metro Code Chapter 5.01 by adopting Ordinance No. 00-866 in June 2000. The amendment created two distinct classifications of transfer stations: local, which are currently limited to the disposal of less than 50,000 tons of solid waste annually; and regional, which are authorized to dispose of 50,000 or more tons of solid waste annually. Regional transfer stations are also obligated to accept all public customers, provide free public drop-off of source separated recyclables, and accommodate periodic household hazardous waste collection events. Both local and regional transfer stations must recover at least 25 percent of incoming mixed non-putrescible waste and self-hauled waste.

Ordinance No. 00-865, also adopted in June 2000, amended the RSWMP to allow the Council to consider applications for new regional transfer stations. Under the amended RSWMP, consideration of new privately owned regional transfer stations could occur only under specified circumstances. Ordinance No. 00-865 does not by itself authorize any new transfer stations. Rather, it provides a vehicle by which the private sector can apply to operate a new regional transfer station or expand a local transfer station to become a regional one. The Ordinance also established a general framework in which the Council can consider an application.

The Application Process

Recycle America representatives met with Metro staff for a pre-application conference on September 18, 2000. Recycle America submitted its first formal regional transfer station franchise application on October 30, 2000. That application was withdrawn on February 12, 2001. The present application was submitted on June 1, 2001 and was substantively amended on June 28, 2001. The Council must approve or deny the application within 120 days of the date the application was amended (by October 26, 2001) or the franchise will be deemed granted (Metro Code 5.01.070(g)).

Key Elements of Proposed Franchise by Applicant

Waste Management proposed several key points as part of the franchise application package. The applicant indicated reduced transportation costs, net Vehicle Miles Traveled (VMT) savings and reduced air pollution. One of the major features of the proposal is to reduce the tip fee at Recycle America from \$68.25/ton to \$60.50/ton. In addition, the applicant proposed specific language to be included in the franchise agreement that lays out specific circumstances in which the applicant would adjust its tip fee. The applicant does not tie a tip fee increase at its facility to a tip fee increase at Metro or other facilities. The applicant has proposed using this fee setting methodology unless or until the Metro Council decides to set rates region-wide.

Public Comment

Notice of Recycle America's application and an opportunity to submit written comment was provided by Metro to all Metro-area local governments, Solid Waste Advisory Committee (SWAC) members, and other interested parties. Metro's response to comments and the applicant's response to comments are included in Appendix A of this staff report. Comments were received from the following:

- **Clark County, Washington, Solid Waste Program.**
- **City of Fairview, Oregon.**
- **East County Recycling (ECR).**

Copies of all of the written comments are available for review upon request. Additional opportunities for public comment will be available at the Council's Solid Waste and Recycling Committee hearing and the Metro Council's hearing when the applicant's request is considered.

DESCRIPTION OF EVALUATION CRITERIA

This section (**Description of Evaluation Criteria**) serves as a starting point for the Council to consider explicit criteria in determining whether to deny or authorize the issuance of a franchise. In the next section (**Net Benefit Analysis**), staff of the Regional Environmental Management Department (REM) provide a detailed discussion and

analysis on major issues in a topical format but with the following evaluation criteria in mind.

Metro Code

Metro Code 5.01.070(f) provides that the Council “shall consider but not be limited by” the following five criteria.

- 1.) *The applicant has demonstrated that the proposed Solid Waste Facility and authorized Activities will be consistent with the Regional Solid Waste Management Plan [Metro Code 5.01.070(f)(1)];*
- 2.) *The applicant has demonstrated that the proposed Activity will result in lower net System Costs, if such a showing is required by section 5.01.060 [Metro Code 5.01.070(f)(2)];*
- 3.) *Granting a Franchise to the applicant would be unlikely to unreasonably adversely affect the health, safety and welfare of the District’s residents [Metro Code 5.01.070(f)(3)];*
- 4.) *Granting a Franchise to the applicant would be unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood [Metro Code 5.01.070(f)(4)]; and*
- 5.) *The applicant has demonstrated the strong likelihood that it will comply with all the requirements and standards of this chapter, the administrative rules and performance standards adopted pursuant to section 5.01.132 of this chapter and other applicable local, state and federal laws, rules, regulations, ordinances, orders or permits pertaining in any manner to the proposed Franchise [Metro Code 5.01.070(f)(5)].*

In addition, Metro Code 5.01.070(c) requires the Executive Officer to formulate recommendations regarding whether the applicant is qualified, whether the proposed franchise complies with the RSWMP, whether the proposed franchise provides sufficient information required of all applicants in Metro Code 5.01.060, and whether the applicant has complied or can comply with all other applicable regulatory requirements.

RSWMP Consistency

Since Recycle America is seeking authority to operate as a full service regional transfer station, one of the primary issues is determining consistency with the RSWMP (Metro Code 5.01.070(f)(1)). The primary method to determine consistency with the RSWMP is to evaluate whether granting the application will result in an overall net benefit to the existing solid waste system.

The additional following criteria were considered by staff in evaluating whether the Recycle America application is consistent with the RSWMP. These criteria also guide the staff in weighing net benefit of proposed activities. These criteria are adopted in the RSWMP and stipulated in Section 12 of Administrative Procedure No. 101.

- A.) *The proposed facility will provide a net benefit to the regional solid waste system. [AP No. 101, Section 12, 12.3.2.1]*
- B.) *The proposed facility will be located where it will provide more uniform access to residents, businesses, and solid waste haulers within the under-served areas. [AP No. 101, Section 12, 12.3.2.2]*
- C.) *The proposed facility will improve system efficiencies in those areas of the region that are under-served. [AP No. 101, Section 12, 12.3.2.3]*
- D.) *The proposed facility will provide a full range of public services that serve a broad or regional market. [AP No. 101, Section 12, 12.3.2.4]*
- E.) *The proposed facility will preserve and enhance the region's material recovery capacity. [AP No. 101, Section 12, 12.3.2.5]*

NET BENEFIT ANALYSIS

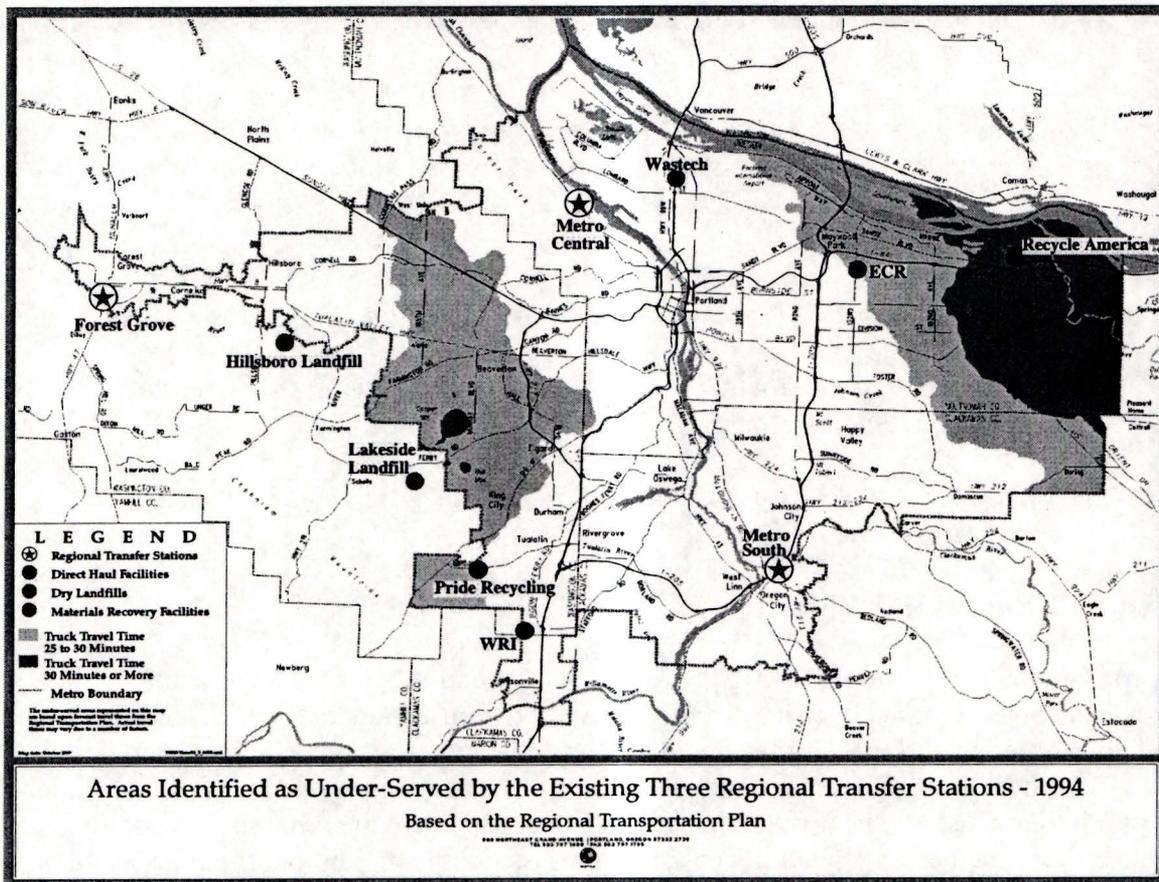
In conformance with the RSWMP, the recommendation regarding the applicant's proposal is based on the likelihood that granting a regional transfer station franchise to Recycle America will meet all the evaluation criteria and produce a clear and certain net benefit to the region. Demonstrating net system cost reduction is one part of the equation in predicting whether a net system benefit will accrue. There are a number of additional factors that have been weighed in arriving at this recommendation regarding net system benefit.

The earlier section on **Description of Evaluation Criteria** lists the five required Code criteria that the Council must consider in determining whether to authorize the issuance of a Franchise. However, the Council is not limited to considering only these criteria. The Council must, in the public's interest, consider the magnitude of any anticipated net system benefit for a proposal with as far reaching effects as the approval of a new regional transfer station. The decision does not lend itself to a simple pass or fail on the codified criteria alone.

In the following section, REM staff provides comment and analysis on each of the issues considered. This section is intended to assist the Council in its consideration and weighing of the issues as it deliberates over its decision.

Under-Served Areas

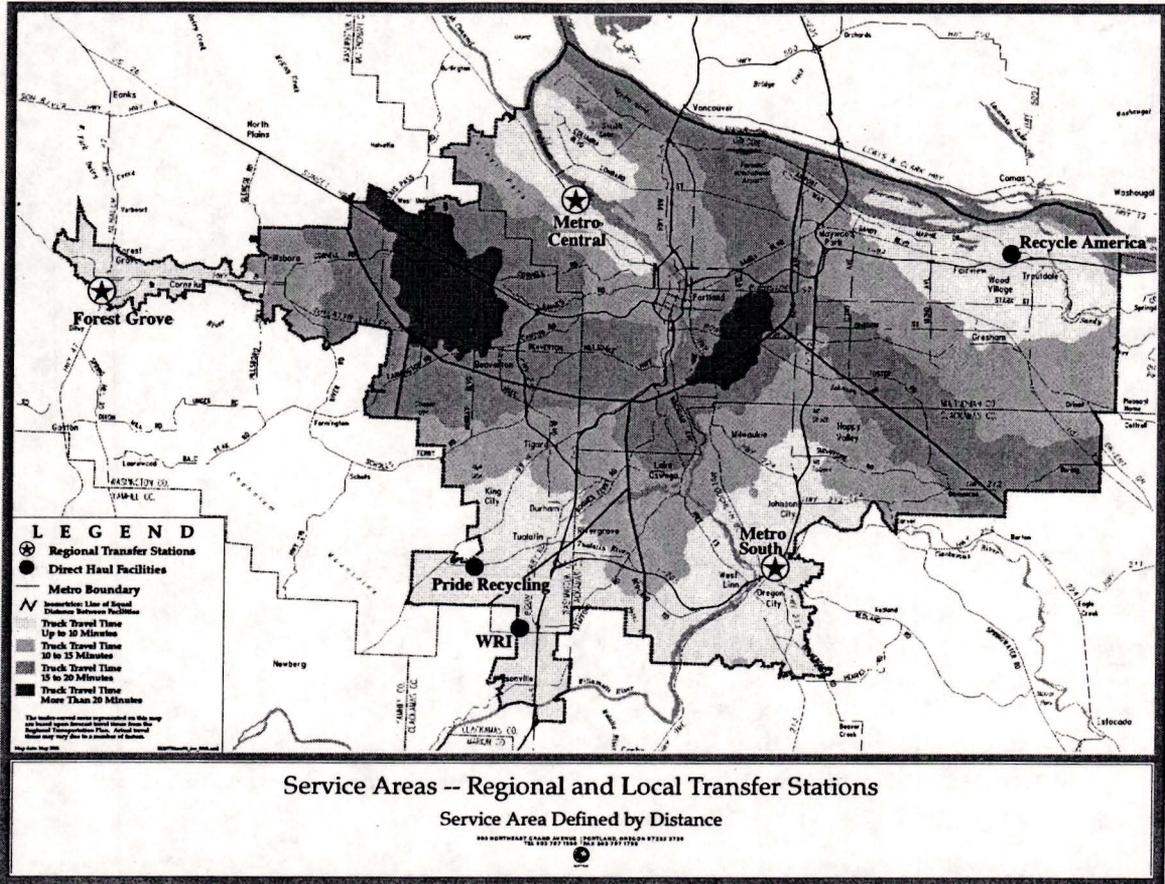
At the time the RSWMP was last amended in 2000 to allow consideration of new regional transfer stations, underserved areas were defined as areas more than 25 minutes travel time from an existing *regional* transfer station. This was also the definition used in Metro's official regional transfer station franchise application form. According to this definition, the northeast corner of the region, the area where Recycle America is sited, is one of the region's two underserved areas, the other being the Beaverton-Aloha area in eastern Washington County (see Map 2).



Map 2: Areas Underserved by Current Regional Transfer Stations

In its capacity as a local transfer station, however, Recycle America already serves a large portion of the northeast corner of the region previously identified as underserved. In addition, dry waste MRFs such as East County Recycling (ECR) and Wastech provide additional service for self-haul and recoverable dry waste within this area but were not considered in the original designation of underserved areas.

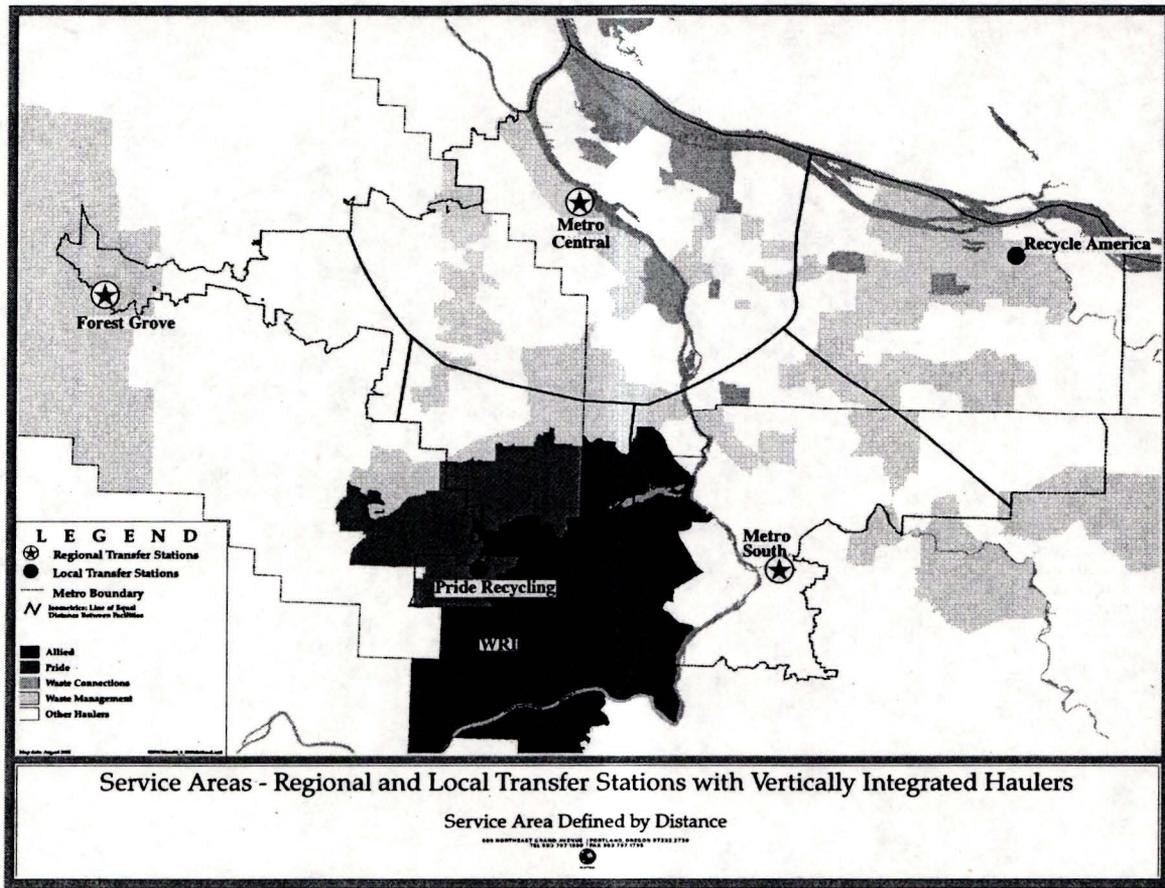
When both regional *and* local transfer stations are considered, the remaining underserved area in the eastern part of the region would shrink down to a band surrounding Recycle America's current service area and would include mainly curbside waste collected by residential waste haulers. This area is underserved, not because it is too distant from a solid waste facility, but rather because of Recycle America's (1) 50,000-ton cap and (2) decision to serve some of its own haulers located further away rather than some nearby independent haulers. (See Map 4 for Waste Management-affiliated haulers in relation to distance from Recycle America.)



**Map 3: Areas Served by Regional and Local Transfer Stations
 (Defined by Distance)**

Notably, because the current 50,000 ton cap at Recycle America crowds out some nearby independent local haulers, it allows Recycle America to accept more waste at greater profit from its affiliated hauling companies. Some of the affiliated routes may be located further from the facility than local haulers' routes, however. It appears appropriate and consistent with the RSWMP to authorize Recycle America for some amount greater than 50,000 tons in order to enable it to better serve the presently underserved haulers without cutting off affiliated haulers. Alternatively, Recycle America could be required to service nearby local haulers to the exclusion of its own haulers located farther away from the facility.

However, granting regional transfer station status to Recycle America and *completely eliminating the cap* will not improve the travel time from some areas that are currently located 20 or more minutes away from the facility. (See dark areas on Map 3.) Since no new transfer stations, either local or regional, are being located closer to the dark areas on Map 3, approval of Recycle America's application will not improve the travel time or distance between these areas and the closest transfer station. However, a lifting or eliminating of the cap will undoubtedly better serve some of the haulers closer to the Recycle America facility.



Map 4: Areas Served by Regional and Local Transfer Stations with Affiliated Haulers Indicated (Defined by Distance)

Applicant's Tonnage Model

The Recycle America facility is currently franchised by Metro as a local transfer station and is limited to dispose of no more than 50,000 tons of solid waste per year. In 2000, the applicant received approximately 53,327 total tons of solid waste and disposed of 49,188 tons. Dry processing residual accounted for approximately 6,000 tons of disposal. For purposes of analysis, the applicant estimates current annual deliveries at 43,671 tons of wet waste and 8,081 tons of dry waste.

The applicant estimates that it will receive an additional 139,905 tons of solid waste per year if authorized to operate as an uncapped regional transfer station. The applicant's system cost analysis is based on its projected annual increase of 108,521 tons of wet waste, 13,568 tons of dry waste and 17,816 tons of self-haul, for a total of 139,905 additional tons. The total tonnage including current tonnage would be 191,657. These estimates are based on the results of a waste flow model developed by EcoNorthwest, an economic consulting firm retained by the applicant.

The model used by EcoNorthwest is similar in many respects to Metro's Solid Waste Flow Simulation Model. Like Metro's model, EcoNorthwest's model assigns waste from Transportation Analysis Zones (TAZ's) to facilities in a strictly economic based on minimization of the sum of the transportation cost and tip fee. Most of the data used in the model, including waste generation rates, travel times, waste volumes, load size, and travel cost are the same as used by Metro. While the underlying algorithm used to assign the waste to facilities is different in the two models, the approach used by the applicant is well accepted and should produce results similar to the model developed by Metro.

The applicant's model distributes the waste in the region to a limited suite of only five facilities (see Map 1). These include Metro Central, Metro South, Wastech, East County Recycling and Recycle America. The model did not include other facilities such as Waste Connection's two Clark County facilities that also have an impact on the system. Unlike Metro's model, the applicant assigns residential waste from the region to franchised haulers and then considers the locations of the haulers' garages in assigning the waste to a particular facility. For example, waste could be assigned to a transfer station that was not the closest transfer station if the hauler's garage was closer to that transfer station.

While the estimated solid waste tonnage that the applicant predicts will go to its facility is within the same order of magnitude as projected in earlier analyses based on Metro's Solid Waste Flow Simulation Model, it is significantly greater than the amount that staff currently anticipates. This over-estimate of tonnage consists of three elements.

- 1) **Out-of-District Waste:** The first element involves approximately 12,400 tons of waste from outside the Metro boundary that the applicant's model assigns to its facility. This tonnage is primarily from Clackamas County and includes waste from areas served by the Sandy Transfer Station, which is operated by Waste Management, Inc. The model assigned this waste to Recycle America primarily because of where the commercial haulers serving this area maintain their garages. While it is possible that some portion of this waste will be delivered to Recycle America, it is inappropriate to consider it in the computation of system cost since it is not system waste. Therefore, cost reductions associated with this waste are not system cost reductions.
- 2) **Waste Connections:** A review of detailed model results provided by the applicant show that the model directs about 9,400 tons of waste to Recycle America from franchised areas served by a subsidiary of Waste Connections (Arrow Sanitary Services). This waste is currently delivered to facilities in Clark County under authority of a non-system license. There is no indication that this hauler would use Recycle America, if available, even though the location of the hauler's garage is convenient to Recycle America. If the applicant had sufficient data on the facilities in Clark County and information on that hauler's internal costs, it is likely that the model would not have directed the waste to Recycle America.
- 3) **Self-haul Waste:** The applicant estimates that the facility will receive 17,820 tons of self-haul waste. This exceeds Metro's self-haul tonnage projection. Metro staff has acknowledged that the confidence level for any model to project self-

haul tonnage is far less accurate than for projecting commercial wet and dry tonnage. This is due, in part, to the different economic factors affecting the behavior of self-haul customers versus commercial customers in choosing to travel to one facility over another. Previous analyses by Metro omitted self-haul tonnage from system cost analyses due to the uncertainties involved in estimating this tonnage. Based on Metro's experience with similar models, it is probable that actual self-haul tonnage will be less than half of that predicted by the applicant's model. Based on previous analyses using the Waste Simulation Model developed by Metro, staff estimates that the total self-haul waste delivered to Recycle America will be approximately 7,000 tons.

Based on the changes discussed above, Metro staff estimates that, without any tonnage cap, Recycle America would receive an additional 108,096 tons as follows: 90,392 tons of wet waste, 10,709 tons of dry waste delivered in drop boxes and 6,995 tons of new self-haul waste. The total tonnage including current tonnage would be 159,848 tons. Thus, Metro's estimate of a likely uncapped flow is 31,809 fewer tons of solid waste than the applicant's estimate. Of this total tonnage, 18,129 tons is wet waste, 2,859 is dry waste and 10,821 is self-haul waste. Staff used these reduced tonnage estimates to develop Metro's estimate of system cost reductions (as well as Metro's fiscal impact estimate discussed later in this report).

Table 1 summarizes and compares Recycle America's actual tonnage for calendar year 2000 with projected calendar year tonnage in 2001. The table also indicates the annualized amount of tonnage projected by Waste Management and Metro if the applicant's request to become a regional transfer station were granted:

	Wet Waste	Dry Waste	Self-Haul	Total
2000 Actual	47,327	6,000	0	53,327
2001 Projected (by WMI)	43,671	8,081	0	51,752
Annual Projected Increase as RTS (by WMI)	108,521	13,568	17,816	139,905
Annual Projected Increase as RTS (by Metro)	90,392	10,709	6,995	108,096

NOTE: The tonnage discussion presented above is predicated on the assumption that the model captures all of the most significant decision variables and that the applicant and other users of the system will behave in an economically rational manner that is correctly described by the models used. Metro presumes that the model's results will remain relatively stable for a reasonable period of time. One factor that is not a part of the model is that companies under common ownership with the applicant control waste streams totaling almost 300,000 tons per year (see Map 4). Private business decisions by those companies, changes in their framework, could result in a shift of additional waste to Recycle America from affiliated haulers. Such a shift could significantly increase the

actual tonnage received at the facility beyond what the model indicates because the model is based solely on minimization of the sum of travel costs and posted tipping fees. The model does not take into consideration the probability that the effective internal "tip fee" of a hauler affiliated with Recycle America is much lower than the posted, public tip fee.

Cross Regional Hauling and VMTs

The applicant has estimated that granting this franchise will reduce vehicle miles traveled (VMT) by 821,000 miles annually. REM staff has determined that the applicant inadvertently included the VMT reductions for the waste already going to the facility in this total. The actual savings based on the applicant's model will be approximately 771,000 miles annually. As discussed earlier, staff's estimates of tonnage that will be delivered to this facility are somewhat lower than the applicant's. This reduction in tonnage will result in lower VMT savings. Staff estimates that the stated VMT savings should be reduced by 25,000 miles due to out-of-district waste, 6,500 miles for Waste Connection's waste and about 33,000 miles due to less self-haul tonnage. Staff estimates total annual VMT savings of about 707,000 miles based on the applicant's model. In addition, there will be a reduction in miles traveled between the landfill and the facility of between 120,000 and 186,000 miles per year.

The following Table 2 compares staff's estimate of VMT savings with the applicant's.

Table 2: Recycle America Franchise Application Estimate of Annual VMT Savings		
Delivery Mode	Applicant Estimate	Metro Estimate
Compacted	200,782	188,073
Drop Box	10,639	9,757
Self Haul	559,816	509,050
Totals	771,238	706,880

In both estimates, the bulk of the savings, 72-73%, arises from diversion of self-haul waste, primarily from Metro transfer stations and East County Recycling. As discussed earlier, Metro's experience indicates that deliveries of self-haul waste are difficult to predict. Therefore the magnitude of VMT savings from self-haul is uncertain. On the other hand one should also note that Metro's estimate of self-haul tonnage is 60 percent lower than the applicant's, yet staff's estimate of VMT savings is only about 10 percent lower.

The dual objectives of reduced cost and reduced VMT, in some respects are conflicting rather than complementary goals. This is because reduced tip fees may attract waste to a facility from greater distances. Enabling more nearby haulers to utilize Recycle America will certainly result in a VMT reduction. However, as waste begins to flow in from areas that are closer to other transfer stations, VMT reductions will be offset by increases in VMT's from these more distant areas. This effect is demonstrated to a degree by the applicant's own model. The applicant's model estimates a VMT savings *over the status quo*. However, because the low tip fee attracts an inflow of waste from Transportation Analysis Zone's (TAZs) that are actually closer to *other* transfer stations, the result is still

suboptimal compared to the VMT savings that would be realized if each hauler were to utilize the nearest facility.

In addition, it is implicit in the applicant's model that haulers are blind to transfer station ownership and choose disposal sites based solely on the sum of the travel cost and the posted tip fee. It should be acknowledged, however, that it is generally in a company's interest to utilize its own facilities rather than its competitors, and that the internal cost for a hauling company to utilize an affiliated transfer station is likely to be less than the posted rate. This reality is clearly reflected in the transfer station utilization patterns that actually exist in the Metro region. In reality, vertically integrated haulers use unaffiliated transfer stations only for loads collected very near those transfer stations. This is the reason that waste generated in areas served by Waste Connections is likely to continue to be delivered to Waste Connections' Clark County facilities even though the distance to Recycle America (and Recycle America's public tip fee) would be less. For these same reasons, staff believes that, in the complete absence of a cap, hauling companies affiliated with Recycle America are likely to cross-haul from much greater distances than indicated by the model. If that were to happen, then a net reduction in VMTs is not at all assured. (See Map 4.)

Impact on Metro Transfer Stations

The effect on Metro's fiscal position and Metro customers of granting a franchise to Recycle America is discussed in this section. The main cause of any fiscal impact to Metro would be the shift of revenue bases (tons and transactions) from Metro transfer stations to a new or expanded regional transfer station. If additional solid waste is delivered to Recycle America, then Metro will lose the transaction fees and tip fees that would have been levied on that tonnage had it gone to Metro. Of course, Metro's costs also drop with the shift in tonnage. For example, no expenses are incurred for transfer, transport and disposal if the tons do not show up at Metro's transfer stations. Metro's costs and revenues, however, do not drop dollar-for-dollar. In fact, Metro loses revenue somewhat faster than it sheds costs when tons are shifted to private facilities. *The net difference between cost reductions and revenue reductions is the fiscal impact.*

The applicant estimates that if this franchise is granted, 126,700 tons per year will shift from Metro transfer stations to Recycle America. Based on the analysis presented earlier, REM staff estimates a smaller shift of 95,000 tons away from Metro facilities. The estimated revenue tonnages are indicated in the following Table 3.

Table 3: Revenue Tonnage			
(First full year)			
Facility Ownership	Status Quo	Applicant Estimate	Metro Estimate
Metro	659,234	532,502	564,311
<u>Non-Metro</u>	<u>557,103</u>	<u>677,916</u>	<u>650,553</u>
Total	1,216,337	1,210,418	1,214,864

As mentioned above, Metro's revenues fall faster than costs when tonnage is shifted to private facilities—in this case, Recycle America. The following Table 4 quantifies this effect. The estimated impact is based on the current Metro fee structure including a \$5.00 transaction fee, \$62.50 tipping fee and a \$12.90 regional system fee.

	Applicant Tonnage Estimate	Metro Tonnage Estimate
Cost Reduction	\$4.7 million	\$3.6 million
<u>Revenue Reduction</u>	<u>\$5.9 million</u>	<u>\$4.3 million</u>
Surplus (shortfall)	(\$1.2 million)	(\$0.7 million)

There are multiple causes for the differential change in costs and revenues. Some of the key impacts which explain Metro's shortfall in Table 4 are described below.

1. *Structure of the transfer station operations contract.* Shifts of variable costs are largely fiscally neutral. For example, it costs Metro about \$14 per ton to transport waste to Columbia Ridge Landfill. This same \$14 is a component of the tip fee. If waste shifts to another facility, Metro does not collect the \$14. But it also does not incur the \$14 cost. However, the transfer station operations contract has a declining block rate structure. This means that the transfer station operations contractor's rate per-ton increases as the amount of tonnage decreases. Staff estimates that the per ton cost for transfer station operations will increase between \$0.20 and \$0.35 per ton.
2. *Fixed costs.* Metro currently incurs certain fixed costs for operating the transfer stations (e.g. administration, renewal and replacement of equipment, scalehouse costs). By definition, fixed costs do not vary with tonnage. These costs are about \$3.5 million per year. The loss of tonnage from Metro facilities due to granting of this franchise would increase the per ton rate required to recover these costs by between \$0.97 and \$1.37 per ton.
3. *Delivery to an exempt facility.* Metro exempts private facilities from fees on everything except waste disposed of in a landfill. In contrast, Metro levies fees on all solid waste that is delivered for disposal to its own transfer stations (Metro Central and Metro South) as does the Forest Grove Transfer Station. This means that fees are levied on any material that is ultimately recovered at Central and South. However, Metro will forego regional system fees on recyclable material that is recovered at Recycle America. This contributes to the fiscal effect, and is part of the 1,500 to 5,900 ton drop in revenue base. This results in a loss of revenues generated by the Regional System Fee of between \$19,000 and \$76,000 per year, with no anticipated increase in recovery.

4. *Material recovery.* The Recycle America facility qualifies for system fee credits based on its recovery rate. The system fee credits resulting from recovery from this waste will increase Metro's costs for credits by \$20,000 to \$79,000 per year, with no anticipated increase in recovery.

The applicant has proposed a lower tipping fee and a proposed methodology for controlling increases in the tipping fee. Staff is not certain how effective the proposed methodology will be in controlling tipping fee growth. The method does appear to limit tipping fee growth to reflect Recycle America's actual cost increases rather than being tied to the Metro tip fee increases.

Finally, if Metro increases its tip fee to recover its costs, any increase to the Metro tip fee will increase the overall system cost. Furthermore, many regional solid waste facility tip fees have historically mirrored Metro's tip fee, this impact to the system may well be magnified. In addition, it is also possible that the gap between Metro's tip fee and Recycle America's could set in motion a spiral of continuously increasing per ton costs at Metro facilities as more and more tons shift to Recycle America, further increasing Recycle America's economies of scale and diminishing Metro's.

System Cost

Metro Code requires an applicant to demonstrate that granting its application will result in a lower net system cost when proposing to engage in direct-haul. Administrative Procedures require that the REM Department generate findings regarding the effect on net system costs for all regional transfer station applications.

System Cost Overview

The RSWMP provides a policy to guide decisions regarding the authorization of additional transfer stations. Goal 3 of the RSWMP states, "The costs and benefits to the solid waste system as a whole are the basis for assessing and implementing alternative management practices." Objective 3.1 goes on to define "system cost" (defined in Metro Code Section 5.01.010 as the sum of the dollar amount expended for collection, hauling, processing, transfer and disposal) as the "primary consideration" for evaluation "rather than only considering the effects of individual parts of the system."

As part of revising the RSWMP to allow consideration of authorizing additional transfer stations in the Metro region, a planning-level analysis of the potential system impacts of two new transfer station facilities was conducted. Metro retained the firm R.W. Beck to assist with this analysis.² Waste Management's Recycle America facility in Troutdale was one of the facilities considered in the study. The R.W. Beck report concluded that authorizing these two facilities to operate as regional transfer stations would result in overall net system cost reductions to the Metro region compared to the existing system in which these facilities operate as local transfer stations. The report estimated total

² System Impact Assessment. R.W. Beck. April 25, 2000.

combined cost reductions for both facilities in the year 2000 of \$972,000 and \$1,282,000 in year 2010 (2000 dollars).³

Administrative Procedure 101, Section 12, stipulates that the analysis shall consider whether the applicant for a franchise “has demonstrated that the proposed Activity will result in lower net System Costs.” Metro developed a methodology for the system cost analysis as a part of the administrative procedures for franchise applications. This applicant elected to conduct a more detailed analysis of system costs than contemplated by Metro. While the applicant did not utilize the format suggested by Metro, the analysis itself is consistent with the basic assumptions employed in Metro’s methodology. An underlying assumption of this methodology is that all costs associated with processing, transfer and disposal of solid waste are reflected in the tipping fees of either the facility losing the waste or the proposed fees of the facility receiving additional waste. Transportation cost reductions are calculated separately. (On the other hand, internal costs at vertically integrated operations are not always reflected in the posted public tip fee. However, access to this information is held confidential by most solid waste operations.) The applicant’s analysis of system cost reductions is discussed in the following paragraphs. Metro staff has prepared estimates showing the change in computed reductions that result if the tonnage delivered to the facility conforms to the adjusted estimate based on the three elements listed earlier. (See “Applicant’s Tonnage Model” (1) Out-of-district waste, (2) Waste Connections’ tonnage; and (3) Self-haul tonnage.)

System Cost Considerations

As indicated earlier, Metro Code defines System Cost as “the sum of the dollar amounts expended for collection, hauling, processing, transfer and disposal of all Solid Waste generated within the District.” Rather than re-calculate all costs for the system, the methodology outlined by Metro is intended to estimate the difference in net system cost that would result from the additional tonnage anticipated to be diverted from Metro facilities to the applicant’s facility if the franchise is granted. The following considerations are key to understanding the system costs conclusions:

Tipping Fees as a Surrogate for Transfer and Disposal Costs

A basic assumption used in the system cost analysis is that all costs to process, transfer and dispose of solid waste are included in a facility's tipping fee. The implication of this assumption is that any increase or decrease in the processing, transfer and disposal costs will be reflected in the applicant's tip fee. Therefore, if the applicant's tip fee is the same as the tip fee charged by the facility that had previously received the waste, there would be no change in system cost. However, if an applicant's tip fee increases or decreases, there would be a corresponding increase or decrease in system cost.

Recycle America’s proposed tipping fees for both wet and dry wastes are \$60.50 per ton, or \$2.00 per ton less than the rate presently charged at Metro facilities. In

³ The system cost reductions in the R.W. Beck report are not the same as the applicant’s analysis primarily because of differences in projected tonnage of solid waste anticipated to be processed at Recycle America.

addition, the applicant does not plan to charge a per load transaction fee (currently \$5/load at Metro facilities). More than half of the system cost reductions computed by the applicant result from the lower tipping fee and the lack of a transaction fee. In addition, the tipping fee proposed by the applicant represents an even greater reduction over the \$68.25 per ton fee currently charge for wet waste (\$68.25) for dry waste (\$64.00). Due to such reductions, a significant portion of the system cost reductions computed by the applicant are due to savings on waste already going to the facility.

The applicant estimates savings of about \$1,048,500 due to the \$60.50 tipping fee and lack of a transaction fee. Of these reductions, \$360,000 accrues to waste that is currently delivered to the facility and the remainder is for new waste that is currently going to other facilities. Metro estimates that these tip fee savings will be approximately \$809,000 based on staff's lower estimate of tonnage that will be diverted to the facility.

It should be emphasized that these estimates of a reduction in system-wide transfer and disposal costs could vary between \$809,000 and \$1,048,500, and are predicated on Metro's current tip fee of \$62.50 per ton. For the reasons explained above under "Impact on Metro Transfer Stations," Metro's per-ton costs will increase as tonnage shifts from Metro to new regional transfer stations, which may result in an increase in Metro's tip fee.

Transportation Costs

For purposes of the applicant's system cost analysis, the change in transportation costs projected to be realized by waste haulers is computed based on the difference in time it takes to transport the waste from the collection route to the transfer station and for the hauler to return to the yard where it stores its collection vehicles. Based on the system cost analysis provided by the applicant, reductions of \$663,600 are projected for the first 12 months of operation. The applicant developed a waste flow model to estimate transportation cost reductions. The methodology used and the basic assumptions are similar to those used by Metro. If the lower tonnages estimated by Metro staff are used, the transportation savings are reduced slightly to approximately \$624,000.

Local Rate Decisions

System cost reductions are only realized by ratepayers when the local rate setting authority recognizes this savings by reducing the collection rates or offsetting a proposed rate increase. Because local governments set collection rates, and because these rates are based on certified costs, there is a possibility that reductions realized by commercial users of Recycle America could translate into benefits to ratepayers through fee reductions.

However, some local government rate setting officials and haulers have indicated, at meetings of the Solid Waste Advisory Committee and the Council's Solid Waste and Recycling Committee, the difficulty in factoring in all such reductions,

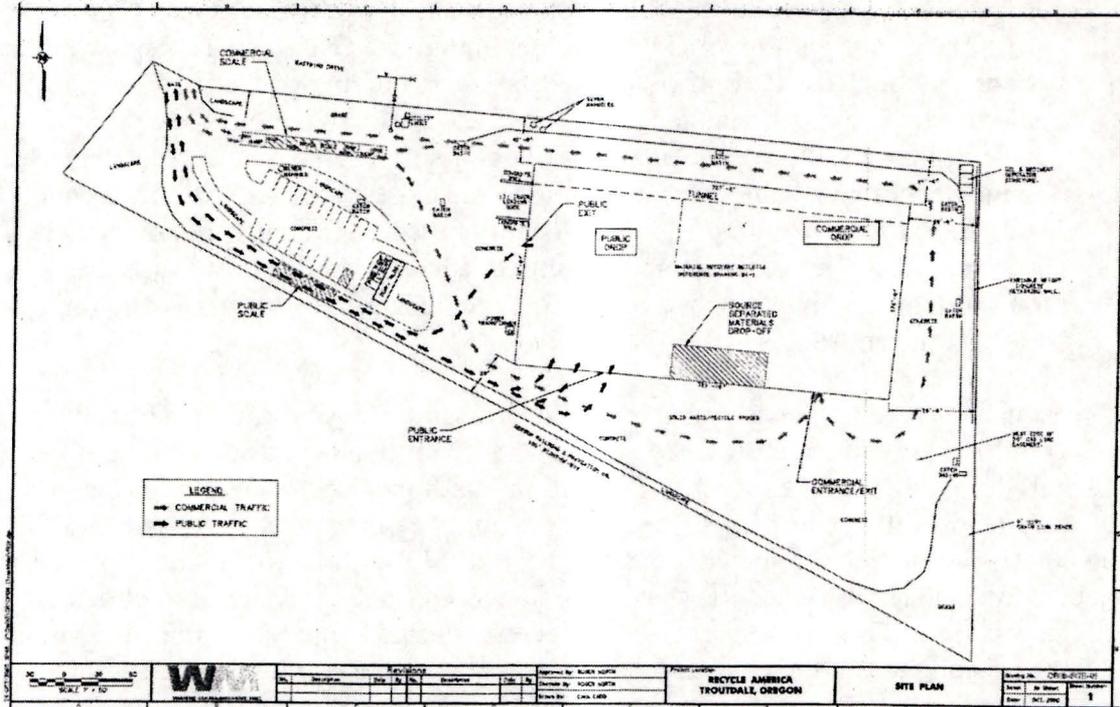
especially transportation cost reductions. This is due to two reasons. First, local government rate setting officials do not compute rates based on a category entitled "transportation costs." Rather, such costs are part of many other factors such as labor costs, fuel costs, maintenance costs, etc. It would, therefore, be very difficult for a local government to shave dollars off such reported accounts based on the belief that a hauler was not going to the closest transfer station. Second, rates are set for an entire geographic locality based on averages, not on hauler-specific basis. Thus, for example, if only one hauler in a locality realized any transportation savings, such savings might be insignificant in terms of setting rates for the entire locality.

It is reasonable to predict gross system cost reductions for Recycle America of between the \$1.4 million (as estimated by REM staff) and \$1.7 million (as estimated by the applicant) during the first 12 months of operation as a franchised regional transfer station. However, the overall net system cost reduction would be offset by approximately \$700,000 (using Metro's projected tonnage levels) or \$1.2 million (using the applicant's projected tonnage levels) when the cost of the increased tip fee at Metro is subtracted from the equation. This, of course, presumes fees collected at the Metro transfer stations will increase commensurate to cover the cost of operating the public transfer stations. (See the previous discussion of fiscal impact on Metro and the Executive Officer's Recommendation on page 23 for further discussion.)

Material Recovery

Metro Code requires all licensed and franchised facilities to recover at least 25 percent by weight of non-putrescible waste accepted at the facility that is waste delivered by public customers or in commercial drop boxes. The RSWMP provides that an applicant's ability to show it will preserve and enhance the region's material recovery capacity is an element of the net benefit analysis. The applicant has indicated that it intends to maintain a recovery rate of 30 percent to 35 percent while slightly increasing the total tonnage of dry waste from which recovery takes place (staff estimates about a 17,700-ton increase including self-haul tonnage). Some of this additional dry tonnage will likely be drawn from facilities that are already doing substantial recovery, such as East County Recycling in Portland, and therefore does not represent additional regional recovery.

The applicant indicates that recovery at the facility will be accomplished by manual floor sorting of dry waste. Based on Metro's experience at its own facilities, staff believes that the applicant may have difficulty in meeting the required 25 percent recovery rate, and is unlikely to meet the more aggressive 30 to 35 percent rate noted in the application. One of the key reasons for this concern is the amount of floor space that will be needed to handle the anticipated self-haul traffic at the facility. The Recycle America facility plan shows that no less than one-third of the floor space in the facility will be used to handle self-haul customers. Based on Metro's tonnage estimates, which are more conservative than the applicants, this means that 19,000 tons of dry waste delivered in commercial vehicles and 134,000 tons of wet waste will have to be handled in the remainder of the building. When required maneuvering space and floor storage for sorting are accounted for, staff questions whether there will be sufficient space to support the required recovery activities.



Recycle America Facility Plan

The degree to which Recycle America's recovery potential would be realized may be partly dependent on the functional relationship between Recycle America and the Wastech material recovery facility, located in Portland and also operated by Waste Management. It appears that Wastech will become Waste Management's primary processing center for residential and commercial source-separated recyclables and mixed waste recovery while Recycle America will primarily function as a solid waste transfer station with floor sorting of mixed dry waste. For example, the sorting line previously located at Recycle America has been moved to Wastech. It is unclear what effect this will have on total recovery for the two facilities combined. It is also unclear how transportation costs will be affected if recyclables generated closer to Recycle America are delivered to Wastech, or if material is transferred between the facilities. Although it appears that each facility will play a more specialized and complimentary role in the processing of putrescible and recoverable wastes, the relationship of the two facilities was not fully discussed in the application.



View of Tipping Floor at Recycle America

In summary, staff concludes that there is no assurance that the applicant will receive a substantial proportion of non-putrescible waste in the long term or that the total recovered tons at the facility will change if Recycle America becomes a regional waste transfer facility.

Compliance History

The applicant has been in continuous compliance with all applicable Metro regulations throughout the history of its operation. The applicant reported a 1999 violation of Federal Aviation Administration regulations related to shipping and transportation of a hazardous material package. The applicant also reported several violations, cited by the Oregon Department of Transportation (ODOT), in 1997 of federal regulations pertaining to random drug and alcohol tests, maintenance of driver records and limits on hours drivers may work within a given week. After an explanation by the company, the issue was dropped by ODOT. None of the violations materially affects staff's conclusion that the applicant has demonstrated a strong likelihood of compliance with all applicable laws and regulations.

Public Impact

Public Services

The applicant has indicated that it intends to accept non-affiliated commercial haulers and public customers during the Metro-specified times of 8:00 AM – 6:00 PM Monday through Friday and 9:00 AM – 5:00 PM on Saturday and Sunday. The applicant will also maintain a free public drop-off area for source-separated recyclable materials at the facility and provide an area for periodic collection of household hazardous waste at the facility.

Health, Safety, and Welfare

The Recycle America facility is permitted by the Department of Environmental Quality and has operated as a MRF since July 1996, and as a local transfer station since December, 1998 without adversely affecting the health, safety, or welfare of the District's residents. During the time Recycle America has been in operation, Metro has never received a complaint regarding the facility.



Load being Tipped at Recycle America

Effect on Surrounding Area

The applicant has obtained a conditional use permit from the City of Troutdale authorizing it to operate as a regional transfer station provided that it constructs specified turn lanes at the corner of Marine Drive and Eastwind Drive. The facility is located in an industrial zone. It is well screened by landscaping and has been operating as a local transfer station since December 1998 without problems. Increasing the intensity of use from a local transfer station to a regional transfer station is unlikely to unreasonably adversely affect nearby residents, property owners or the existing character or expected future development of the surrounding neighborhood.

BUDGET IMPACT (FY 01/02)

Solid Waste Revenue Fund

Granting this franchise would reduce Metro's net solid waste revenue by between \$700,000 to \$1.2 million in FY 01-02. That figure is based on the staff assumption that the applicant would have operated as a regional transfer station effective July 1, 2001. The actual budget impact will depend on exactly when the applicant actually begins receiving increased solid waste tonnage. For example, if Recycle America were to commence operation as a Regional Transfer Station on January 1, 2002, then the budget impact would be about half, or between \$350,000 and \$600,000.

No budget impact is expected in future years, as future budgets will reflect the new system configuration with Recycle America as a regional transfer station.

General Fund

Solid waste excise tax revenue would fall \$20,000-\$50,000 below FY01-02 current forecasts, assuming Recycle America operated the full year as a regional transfer station. The actual revenue impact would depend on exactly when the applicant begins receiving increased solid waste tonnage. For example, if Recycle America commenced operation as a regional transfer station on January 1, 2002, then the impact would be about half, or between \$10,000 and \$25,000.

The per-ton excise tax would self-adjust per Metro Code Chapter 7.01 to collect the appropriate revenue after the first full calendar year of Recycle America's operation as a regional transfer station.

EXECUTIVE OFFICER'S RECOMMENDATION

The Metro Code requires the Executive Officer to formulate recommendations to the Metro Council "regarding whether the applicant is qualified, whether the proposed Franchise complies with the Regional Solid Waste Management Plan, whether the proposed Franchise meets the requirements of [Metro Code] section 5.01.060, and whether or not the applicant has complied or can comply with all other applicable regulatory requirements." (See Metro Code 5.01.070(c).) In addition, the Metro Code requires the Council to consider five criteria when deciding whether to grant or deny an application for a regional transfer station franchise, but the Code explicitly provides that the Council need not be limited by only those five criteria. The previous analysis in this report has addressed all of the issues that the Executive Officer is required to analyze, as well as all five of the criteria the Council is required to consider.

The Executive Officer finds that the applicant is qualified to operate a regional transfer station and has complied and can comply with all other applicable regulatory requirements. The Executive Officer also finds that the application meets the requirements of Metro Code 5.01.060(a), (b) and (c).

The Executive Officer believes, however, that the most important criteria is demonstration by the applicant that the proposed new facility will be consistent with the RSWMP. (See Metro Code 5.01.070(c) and (f)(1), and 5.01.060(d) and (e)(2)). The RSWMP provides that new transfer stations may be considered when disposal services have been impaired by either of two factors: inadequate capacity or inadequate access. It should be emphasized from the outset that the region's current transfer stations have more than adequate capacity to accept, manage, and transfer all of the region's waste for many years to come. If a new regional transfer station is to be granted, therefore, the primary rationale must be improved access. Moreover, the RSWMP also specifically provides that a regional transfer station may be approved if it will provide a net benefit for the region. Thus, to grant an application for a regional transfer station, an applicant must demonstrate that the benefits of doing so outweigh the costs that will accompany such a decision.

The net benefit analysis of the applicant's proposal does not lend itself to a simple pass or fail analysis of a list of objective criteria; rather, it requires the weighing and balancing of several different factors. Further, we know through experience that significant changes to the system carry with them a strong likelihood of unforeseen disruption and unintended consequences. Given this, prudence demands that new regional transfer station franchises be approved only if the potential benefits are large and certain enough to outweigh potential risks to the system or if conditions are placed on an operation to minimize the risk of disruption.

Taking into consideration the changes made to the RSWMP just over a year ago to allow consideration of new transfer station applications and the rationale that led to those changes, the Executive Officer concludes that the most important issues to be considered are whether:

- (1) service in certain areas of the region deemed to be "underserved" will be improved and vehicles carrying solid waste will use the nearest transfer station,
- (2) there will be a net system cost reduction, and if there are savings, that they will be passed on to ratepayers, and
- (3) material recovery operations in the region will be preserved and enhanced.

Underserved Areas and Use of Nearest Transfer Facilities

One of Metro's key objectives in deciding to consider the establishment of additional regional transfer stations was to provide for better access within underserved areas. Functionally, "underserved areas" have been defined as areas within the region that are more than 25 minutes from a transfer station that will accept putrescible waste. As a local transfer station, Recycle America already has the authority and capacity to serve a substantial portion of the area in the far northeast corner of the region. In other words, the underserved area currently is not as large as originally identified (see Map 2, page 7). Moreover, the original identification did not take into account the existence of dry waste material recovery facilities in the region, such as the ECR and Wastech facility located in that area. Nevertheless, the area that was originally designated as underserved covered an area that generated more than 50,000 tons of putrescible waste. In addition, as a regional transfer station, Recycle America would be required to be open to the public, and it will therefore make more services available in that portion of the region for self-haul service, notwithstanding that ECR currently provides service to many self-haul customers in that area. Thus, granting Recycle America's application would undoubtedly result in better service to some limited underserved areas and customers, and for some types of wastes.

An important problem, however, is that granting the application, and eliminating the 50,000 ton cap, may actually result in the shipment of some waste to Recycle America from areas that are closer to other transfer stations. For example, Recycle America currently ships waste to its facility from some of its affiliated haulers across portions of the region, notwithstanding that other transfer stations are closer to where that waste originates. (For example, residential waste is currently transported by Waste Management trucks from Milwaukie to the Recycle America facility even though Milwaukie is closer to Metro South). We can only presume that Waste Management's

internal costs are significantly less than the posted rate despite the higher tip fee at Recycle America (\$68.25) than at Metro South (\$62.50). It can be anticipated that, if this transfer station is approved and the cap is lifted at Recycle America, Waste Management affiliates from other portions of the region will also start using the Recycle America facility rather than the nearest transfer station (see Map 4, page 9 for other franchised hauling areas). This was not what was intended when the RSWMP was amended in 2000. (Moreover, it also should be noted that even if this application is approved, areas of the region that are 20 minute or more away from Recycle America in travel time will remain 20 minutes or more away. See Map 3, page 8 for distances from transfer stations.) Thus, granting regional transfer station status to Recycle America may improve access to a limited part of the region's underserved areas, but it also may encourage additional cross-region hauling of waste.

Net System Cost Reduction and Likelihood It Will Be Realized By Ratepayers

Staff estimates that the net system cost reduction by granting this application will be \$700,000. This represents the difference between system cost reductions due to Recycle America's lower tip fee and reduced transportation costs of approximately \$1.4 million (based on staff's estimate using the applicant's system cost model) and the increase in Metro's gross tip fees that will be required to keep the Metro transfer stations whole of approximately \$700,000.

There are two important points to take into consideration, however, when interpreting these net reductions. First, the ultimate goal of reducing system cost is intended to benefit citizen ratepayers by providing them with the lowest practicable cost solid waste recycling and disposal service. A key question, then, is whether the system cost reductions resulting from granting a new transfer station will be passed on to ratepayers. This question goes to the efficacy of local governments' ratemaking systems to pass on the cost reductions of the kind predicted here. Those systems are generally based on a review of local haulers' costs, including tip fees, labor, fuel, vehicle maintenance, etc. It has been publicly noted by local government officials and at least one hauler representative that it is exceptionally unlikely that the local ratemaking systems would be able to incorporate the projected transportation savings into new rates since transportation costs are not independently counted as they were in the model used by the applicant or in Metro's model. In reality, such costs are very difficult to accurately and reliably track and count.

Moreover, although Recycle America's commitment to have a lower tip fee would be easier to pass through to ratepayers, the larger localities in the region that have more than one franchised hauler base their ratemaking on an average of such costs across all haulers. Thus, for haulers in the City of Portland, for example, the fact that a few haulers may be able to take advantage of a lower tip fee may very well not result in any rate change. In short, although Metro must to a certain degree rely on local governments to be responsible for passing system cost reductions through to ratepayers, the fact is that the ratemaking systems currently used may not be well suited to pass on such costs in this instance.

Additionally, even if it could be assured that savings would be passed through to ratepayers, it must be recognized that granting regional transfer station status to Recycle America would create both winners and losers. That is to say, residents in franchised areas close to Recycle America whose haulers began using that facility might see a savings in their garbage bills as their local governments factored the greater transportation efficiencies and tip fee savings into collection rates. However, the much larger group of ratepayers whose haulers use Metro's transfer stations would be burdened with higher rates as Metro increased its tip fee to pay for its costs after having lost tonnage and, along with it, part of those stations' economies of scale. Tip fee increases at Metro transfer stations would most likely result directly in a local rate increase, whereas, transportation cost reductions have only a slight chance of lowering local rates. Assuming, again, that all net system cost reductions could be directly passed through to ratepayers, garbage bills of individual "winners" would decrease by more than garbage bills of individual "losers" would increase. Nevertheless, there would be far more "losers" than "winners" if this application were granted.

Preserved and Enhanced Material Recovery

The applicant has indicated that it will increase only slightly the total tonnage of dry waste from which recovery takes place. What is difficult to determine, however, is whether a significant amount of this "new" waste that will be processed for recovery at Recycle America previously went unprocessed, or if it is simply being attracted to Recycle America from other dry waste material recovery facilities, such as ECR. Staff has concluded that a substantial portion of this dry tonnage will likely be drawn from facilities that are already doing substantial recovery. Moreover, there is no assurance that the applicant will accept a substantial proportion of non-putrescible waste in the long term or that it will recover as great a percentage from that waste as the facilities that are presently processing that waste. Notably, Recycle America recently removed the sorting line from its facility and installed that line at the Wastech material recovery facility located in Northeast Portland (another Waste Management affiliate). That move appears to be an attempt to focus Recycle America's operations on waste transfer and to de-emphasize waste recovery. Thus, although the region's waste recovery capability is not likely to be diminished by granting this application, there is no compelling evidence that granting the applicant's requested franchise will enhance the region's recovery capacity.

Conclusion and Recommendation

The applicant's proposal is not without merit. Its proposed tip fee reduction represents a real and tangible cost benefit and it appears that granting its application would result in some transportation cost savings and VMT efficiencies as well. The question, however, is whether the estimated benefits are sufficiently certain, large, equitably distributed, and likely to be realized by the region's ratepayers to outweigh the likely costs and potential risks of granting this application. On balance, the Executive Officer finds that the likely benefits do not outweigh the likely costs *at this time*.

For the above reasons, the Executive Officer recommends approval of Ordinance No. 01-920, denying Recycle America's application for a Regional Transfer Station Franchise.

APPENDIX A

PUBLIC COMMENTS

Notice of Recycle America's application and an opportunity to submit written comment was provided by Metro to all Metro-area local governments, Solid Waste Advisory Committee (SWAC) members, and other interested parties. Comments were received as follows:

- **Clark County, Washington** – Kathy Kiwala, the county's Solid Waste Program Manager, has requested that the franchise agreement, if granted, specify that the franchisee be required to report the county and state of origin of each load of solid waste accepted.

***Metro Response:** Metro agrees with the comment letter and would recommend that the Council include such a provision in the franchise if it is to be approved.*

- **City of Fairview, Oregon** – Steven M. Kaufman, City of Fairview Planning Commissioner, submitted a letter endorsing the application under consideration.

***Metro Response:** Metro notes the endorsement.*

- **East County Recycling (ECR)** – Vince Gilbert of ECR submitted an extensive comment letter that raised the following issues:

ECR Comment:

1. Concerning the source of data that was obtained to create a need or determine underserved areas, were all stake holders contacted including but not limited to large privately owned hauling companies or did the information come from a chosen few to influence the outcome in a certain direction?

Metro Response:

The process leading up to the decision to amend the Regional Solid Waste Management Plan (RSWMP) to allow consideration of new regional transfer stations was a highly public process. The process involved extensive discussion of all stakeholders at Solid Waste Advisory Committee (SWAC) meetings, and before the Council's Solid Waste and Recycling Committee, and the Metro Council. ECR and other stakeholders took an active part in these discussions.

ECR Comment:

2. Are there other alternatives for the underserved areas i.e. small transfer stations? The only underserved areas in northeast Multnomah County are the residential curbside haulers. The commercial dry waste and self-haulers are very well served and the capacity is there for many years.

Metro Response:

Staff and the Council are evaluating both the effects on the solid waste system of a new regional transfer station and alternatives such as local transfer stations or

combinations of the two types of transfer stations. While it is true that the region has adequate overall capacity, Metro also considers distance and time to a disposal site to determine whether to grant an application for a new regional transfer station.

ECR Comment:

3. If we are trying to achieve hauling efficiencies, what kind of requirement will there be to use the closest facilities. Have the haulers themselves made their trucks and equipment as efficient as possible?

Metro Response:

The Council is evaluating policies to encourage haulers to maximize efficiency and minimize Vehicle Miles Traveled (VMT) while letting the private market place operate. However, the routing of vehicles and the locations of truck yards sometimes make it more efficient to utilize a facility that is not the nearest one to a particular generation site. Metro has done modeling to predict waste flow, transportation and system efficiencies. Metro's assumptions, where they differ from those of Recycle America's, are noted in the staff report.

ECR Comment:

4. Will all regional transfer stations have to follow the same rules, regulations and uniform policies?

Metro Response:

Yes, these rules, regulations, and policies are set forth in the RSWMP, the Metro Code, and Administrative Procedures.

ECR Comment:

5. Why is the recycling percentage minimum set so low, when the present MRFS are achieving much higher recycling rates and the state has mandated 50% recovery?

Metro Response:

The policy-making process by which the minimum recovery rate was established involved extensive discussion with all stakeholders at SWAC meetings, and before the Council's Solid Waste and Recycling Committee, and the Metro Council. ECR and other stakeholders took an active part in these discussions.

ECR Comment:

6. What kind of a policy will Metro have in place to insure all dry waste is MRFed and not set to the wet side of the facility? Why can't Metro run the gate?

Metro Response:

Metro Code requires a minimum recovery rate of 25 percent from mixed non-putrescible and self-hauled waste. Frequent random inspections assure that loads of waste are classified accurately. Metro has authority to run the gates and scalehouse at privately owned transfer stations and will exercise such authority as it determines is appropriate.

ECR Comment:

7. Has anyone given the FAA an oversight into this application? This is a putrescible waste facility operating within ¼ mile of a FAA airport where jets land. Please see FAA Advisory Circular #150-5200-33 hazardous wildlife attractants on or near airports. "Solid waste facilities can not be located within 10,000 ft. of an airport."

Metro Response:

Metro has reviewed FAA Advisory Circular 150/5200-33 and did not see the statement quoted in ECR's comment letter. In fact, AC 150/5200-33 explicitly notes that the enclosed waste facilities such as Recycle America "generally would be compatible...with safe airport operations provided they are not located ... within the runway protection zone." Moreover, whether the facility is appropriate for its location is a local land use decision and we note that the Troutdale City Code contains numerous safety provisions related to operations at the airport which were likely part of the applicant's land use approval process. In any event, responsibility for compliance with FAA rules, including the notification requirement of AC 150/5200-33, lies with the applicant. Metro's local authority over transfer stations does not supplant any federal authority.

The applicant has provided responses to the comments from East County Recycling and Clark County by letter from Adam Winston, Division Manager for Waste Management. Copies of all of the written comments are available for review. Additional opportunities for public comment will be available at the Council's Solid Waste and Recycling Committee hearing and the Council's hearing when the applicant's request is considered.

Agenda Item Number 7.2

Ordinance No. 01-921, Amending the FY 2001-2002 Budget and Appropriations Schedule by Transferring Appropriations from Contingency to Operating Expenses in the Administrative Services Department within the Support Services Fund to Implement GASB 34.

Second Reading

Metro Council Meeting
Thursday, October 18, 2001
Metro Council Chamber

BEFORE THE METRO COUNCIL

AN ORDINANCE AMENDING THE FY 2001-02) ORDINANCE NO. 01-921
BUDGET AND APPROPRIATIONS)
SCHEDULE BY TRANSFERRING)
APPROPRIATIONS FROM CONTINGENCY)
TO OPERATING EXPENSES IN THE) Introduced by Mike Burton,
ADMINISTRATIVE SERVICES DEPARTMENT) Executive Officer
WITHIN THE SUPPORT SERVICES FUND TO)
IMPLEMENT GASB 34.)

WHEREAS, The Metro Council has reviewed and considered the need to transfer appropriations within the FY 2001-02 Budget; and

WHEREAS, The need for the transfer of appropriation has been justified; and

WHEREAS, Adequate funds exist for other identified needs; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. That the FY 2001-02 Budget and Schedule of Appropriations are hereby amended as shown in the column entitled "Revision" of Exhibit A to this Ordinance for the purpose of transferring funds from contingency to operating expenses in the Administrative Services Department within the Support Services Fund to support the implementation of the Government Accounting Standards Board (GASB) Policy Statement Number 34.

ADOPTED by the Metro Council this _____ day of _____, 2001.

David Bragdon, Presiding Officer

ATTEST:

Approved as to Form:

Recording Secretary

Daniel B. Cooper, General Counsel

Exhibit A
Ordinance No. 01-921
FY 2001-02 SCHEDULE OF APPROPRIATIONS

	<u>Current</u> <u>Appropriation</u>	<u>Revision</u>	<u>Amended</u> <u>Appropriation</u>
SUPPORT SERVICES FUND			
Administrative Services/Human Resources			
Operating Expenses (PS & M&S)	\$4,130,198	\$35,000	\$4,165,198
Capital Outlay	77,000	0	77,000
<u>Subtotal</u>	<u>4,207,198</u>	<u>35,000</u>	<u>4,242,198</u>
Information Technology			
Operating Expenses (PS & M&S)	2,069,088	0	2,069,088
Debt Services	49,867	0	49,867
Capital Outlay	416,500	0	416,500
<u>Subtotal</u>	<u>2,535,455</u>	<u>0</u>	<u>2,535,455</u>
Office of General Counsel			
Operating Expenses (PS & M&S)	1,137,827	0	1,137,827
<u>Subtotal</u>	<u>1,137,827</u>	<u>0</u>	<u>1,137,827</u>
Office of Citizen Involvement			
Operating Expenses (PS & M&S)	65,226	0	65,226
<u>Subtotal</u>	<u>65,226</u>	<u>0</u>	<u>65,226</u>
Office of the Auditor			
Operating Expenses (PS & M&S)	630,411	0	630,411
<u>Subtotal</u>	<u>630,411</u>	<u>0</u>	<u>630,411</u>
General Expenses			
Interfund Transfers	2,296,177	0	2,296,177
Contingency	404,134	(35,000)	369,134
<u>Subtotal</u>	<u>2,700,311</u>	<u>(35,000)</u>	<u>2,665,311</u>
Unappropriated Balance	333,806	0	333,806
Total Fund Requirements	\$11,610,234	\$0	\$11,610,234

All Other Appropriations Remain as Previously Adopted

BUDGET COMMITTEE REPORT

CONSIDERATION OF **ORDINANCE NO. 01-921**, FOR THE PURPOSE OF AMENDING THE FY 2001-02 BUDGET AND APPROPRIATIONS SCHEDULE BY TRANSFERRING APPROPRIATIONS FROM CONTINGENCY TO OPERATING EXPENSES IN THE ADMINISTRATIVE SERVICES DEPARTMENT WITHIN THE SUPPORT SERVICES FUND TO IMPLEMENT GASB 34

Date: October 18, 2001

Presented by: Councilor McLain

Committee Recommendation: At its October 10, 2001, meeting, the Budget Committee voted 5-0 to recommend Council adoption of Ordinance No. 01-921. Voting in favor: Councilors Atherton, Bragdon, Burkholder, McLain, and Monroe. Voting against: None. Absent: Councilors Hosticka and Park.

Background: Don Cox, Accounting Manager, presented the staff report. He stated that the Governmental Accounting Standards Board (GASB) has issued policy statement #34, with which Metro, as a government agency, is expected to comply. Because a large amount of work will be required to implement these standards prior to June 30, 2002, the proposed ordinance moves estimated expenditures of \$35,000 from contingency to operating expenses in the Administrative Services Department to accomplish this task.

Committee Issues/Discussion: There was none.

Key Public Testimony: There was none.

STAFF REPORT

CONSIDERATION OF ORDINANCE NO. 01-921 AMENDING THE FY 2001-02 BUDGET AND APPROPRIATIONS SCHEDULE BY TRANSFERRING APPROPRIATIONS FROM CONTINGENCY TO OPERATING EXPENSES IN THE ADMINISTRATIVE SERVICES DEPARTMENT WITHIN THE SUPPORT SERVICES FUND TO IMPLEMENT GASB 34.

Date: September 18, 2001

Presented by: Jennifer Sims

DESCRIPTION

The proposed amendment calls for transferring appropriations between budget classifications in the Administrative Services Department within the Support Services Fund. This is being done to provide funding for implementation of Governmental Accounting Standards Board (GASB) Policy Statement #34.

EXISTING LAW

ORS 294.450 provides for transfers of appropriations within a fund if such transfers are authorized by official resolution or ordinance of the governing body for the local jurisdiction.

BACKGROUND AND DISCUSSION

Metro is subject to the requirements and procedures of the Governmental Accounting Standards Board (GASB). GASB has issued a policy statement, #34, which significantly changes the way governments are required to present their financial statements. An overview of this standard was presented to the Council Budget & Finance Committee on September 12, 2001 and additional informational materials have previously been provided to Council. Metro is required to have all elements of this new standard implemented for the current fiscal year's report for the fiscal year ended June 30, 2002.

There is a significant amount of work required to implement this standard, which must be completed in addition to the Accounting Services Division's existing responsibilities and priorities. Metro Accounting staff has completed a readiness assessment and prepared written documentation of the requirements and issues to be addressed in this standard as it may apply to Metro. The next step is to prepare a detailed work plan to meet the GASB 34 requirements, which will require outside professional accounting services. The work plan will include determination of the specific tasks necessary to implement the standard, the order of most efficient and effective completion, the expected time of completion, and an estimate of the time and staff required to complete the work. Accounting Services has drafted, and plans to issue, a request for proposals to contract for the needed professional services. This work plan and project schedule should be completed by November 30, 2001. A copy of the draft Request for Proposal, shown as "Attachment A" is included with this staff report for reference.

Concurrently with this outside assistance, Metro staff will be completing the audit and Comprehensive Annual Financial Report (CAFR) work for the fiscal year ended June 30, 2001. Staff will also be working on GASB 34 requirements related to definitional issues required to be in place by the time the remaining schedule is available.

Project Goal The goal of this work effort is to develop systems and procedures needed to provide the information required to comply with these standards prior to June 30, 2002, and to prepare the CAFR for the fiscal year then ended in accordance with this standard by October 15, 2002. Metro's intent is to receive an unqualified audit report on these financial statements and to continue to receive the Government Finance Officer Association's (GFOA) Award for Excellence in Financial Reporting.

BUDGET IMPACT

The proposed amendment moves \$35,000 from contingency to operating expenses in the Administrative Services Department portion of the Support Services Fund. This amendment would reduce the fund contingency from \$404,134 to \$369,134 leaving sufficient appropriations available to other departments within the Support Services Fund.

OUTSTANDING QUESTIONS

Through this amendment all questions are resolved regarding funding this implementation.

EXECUTIVE OFFICER'S RECOMMENDATION

The Executive Officer recommends adoption of Ordinance No. 01-921

Attachment A

Request for Proposals To

Provide Professional Services for Metro's GASB Statement 34 Implementation Project

I. Introduction

Metro is a regional government that serves 1.4 million people who live in Clackamas, Multnomah and Washington counties and the 24 cities in the Portland metropolitan area. Metro's Accounting Services Division, within the Administrative Services Department provides financial reporting, payroll, accounts payable, accounts receivable and investment services to all Metro departments. These departments include operations for regional solid waste disposal and recycling, transportation and growth management planning, operation of the Oregon Zoo, Oregon Convention Center, Expo Center, Portland Center for the Performing Arts, and regional parks.

This Request for Proposals seeks to contract for professional accounting services to help Metro prepare a GASB 34 implementation schedule and checklist (a plan), including estimated resource (time and staff) requirements. Metro professional staff have completed a readiness assessment and documented in written form the requirements and issues to be addressed in this standard as it may apply to Metro (but not the resolution of those issues or the methods to resolve them). Metro seeks to obtain services to assist in taking this information to the next step, and detailing in written form – the order of most efficient and effective completion and expected time of completion, the specific tasks necessary to implement the standard. Metro is required to prepare its financial statements under these provisions for the current fiscal year – ending June 30, 2002. Metro desires to complete the development of a project schedule by October 31, 2001.

II. Background

Metro annually prepares a Comprehensive Annual Financial Report (CAFR) which includes the financial statements required for fair presentation in accordance with generally accepted accounting principles (GAAP) as issued by the Governmental Accounting Standards Board (GASB). GASB has issued Statement 34 (and its companion Statement 36 and 37), which implements the new financial reporting model for state and local governments. Metro is required to prepare its financial statements in accordance with these standards for the fiscal year ended June 30, 2002. Metro Accounting Services professional staff have reviewed the applicable standards and prepared a GASB Statement 34 Issues worksheet, to be used as a basis for further work.

Project Goal The goal of this project is to design the systems and procedures to obtain the information required to comply with these standards prior to June 30, 2002, and to prepare

the CAFR for the fiscal year then ended in accordance with this standard by October 15, 2002. Metro's intent is to receive an unqualified audit report on these financial statements and to continue to receive the Government Finance Officer Association's (GFOA) Certificate of Achievement for Excellence in Financial Reporting for the CAFR for the year ended June 30, 2002.

III. Purpose of This Solicitation

Metro staff finds that it needs additional resources to develop a detailed schedule of implementation, so that simultaneous progress can be achieved on the current fiscal year's CAFR and audit completion, as well as initial GASB 34 related policy formulation. The scope of work, for which we intend to contract with a qualified professional accounting services firm, is described in the following section. Metro may desire additional assistance beyond this primary scope, should there be funds remaining – which is described below and should be proposed separately from the primary task.

IV. Scope of Services Requested

Listed below are the professional accounting services for which Metro seeks to contract.

- 1. Review Metro prepared documents regarding GASB 34 issues.**
- 2. Review professional literature, as appropriate, to assist in identifying scheduled implementation tasks to complete for fair presentation of Metro's financial statements in accordance with GAAP.**
- 3. Interview Metro accounting and finance staff, as needed, to determine current information retrieval capabilities and staff resources to support GASB 34 requirements.**
- 4. Prepare a detailed implementation plan and schedule that will enable Metro to implement all GASB 34 and related requirements by June 30, 2002, including:**
 - a) Statement of each task to be completed**
 - b) Reference to GASB literature as the source of each task and confirmation of applicability or non-applicability of key provisions to Metro**
 - c) Targeted date of completion for each task**
 - d) Estimated hours to complete each task**
 - e) Metro staff assigned to complete each task**
 - f) Identification of policy areas needing higher levels of approval**
 - g) The plan must be presented in the order of logical completion (i.e. critical path tasks), so that prerequisites are completed at appropriate times to enable other tasks to move forward as efficiently as possible.**
 - h) The plan will be also formatted to serve as a checklist of tasks to complete, in critical path order, for full compliance with the standards.**

Other potential work elements to be proposed separately:

- 1) Should additional funds be available, upon completion of the above project tasks, assistance in determining the appropriate procedures to use in allocating internal service fund elements to the respective funds and activities for government-wide presentation (as defined in GASB Statement 34) is desirable.
- 2) Determination of ongoing workload impact to comply with GASB Statement 34, based upon knowledge gained from the above project.

V. Proposal Contents

In the written proposal, please provide or describe the following:

- A. **Submittal letter** that summarizes the proposal briefly and provides the name, title and contact information for the person with authority to negotiate and manage the contract.
- B. **Proposal Narrative**
 1. **Work plan and methodology.** How will you perform each of the tasks identified in the scope of work. Describe the process you will follow to complete each task and how you will determine what GASB standard element will be applicable to Metro and in estimating its time of completion. You shall describe the start and completion dates of your services for this scope of work. If you desire to propose on the potential additional services of recommending an approach for allocation of internal service fund activity in the government-wide statements, please identify and provide this work plan separate from the primary scope of work.
 2. **Finished Product.** Describe the finished product of your work effort. Include examples as appropriate. Also, please describe the quality control and review procedures used to assure a complete, timely and quality end product.
 3. **Staffing and management.** Provide names, qualifications and hourly billing rates for staff assigned to do this work—task by task where appropriate. Proposals also should identify one person to manage the work and who will serve as the primary contact for Metro. The narrative must describe the experience of the firm and the staff assigned to the engagement, specifically in implementation of GASB 34 requirements in local government. Please provide references for this work that include the staff assigned to this effort, and the staff's role in previous GASB 34 projects.
 4. **Cost.** Please provide the following cost elements:
 - How will you charge for each task
 - The basis on which fees are charged
 - The hours you estimate for each task to be completed
 - Amount of reimbursable expenses you anticipate (travel, lodging, etc.).
 - Provide a table that identifies, for each task, the person(s) performing the work, their hourly billing rate, expected expenses and, if possible, a likely range of hours required for each task.
 - The total sum proposed to complete this work inclusive of all costs.

- Separate from the above costs, provide additional cost proposal for the optional work on allocation of internal service funds in the government-wide statements.
5. **Technical assistance.** Describe in detail the experience the firm and specific staff to be assigned to Metro's engagement had in implementing GASB 34 and its related standards in local government. Include training courses attended or led to demonstrate applicable knowledge and expertise.
 6. **Schedule.** Provide a schedule that details the work to be completed, include the proposed start date, significant milestone dates and proposed completion date.
 7. **Exceptions and Comments.** Firms wishing to take exception to, or comment on, any specified requirements within this RFP, or in Metro's Standard Contract, are encouraged to document their concerns in this part of their proposal. Exceptions or comments should be succinct, thorough and organized.

VI. Proposal Instructions

- A. **Intention to propose.** If you are interested in proposing to provide any or all of the services Metro requires, or if you have questions or comments, please contact Don Cox at 503.797.1632 or at cox@metro.dst.or.us. If requested, interested parties may receive a copy of the current draft staff document, "GASB Statement 34 Implementation Issues," which represents Metro staff's reading of GASB 34 and identification of overall issues. This document may serve as an element for the development of the work product called for in this proposal. Due to the limited number of copies available, you are invited to review Metro's CAFR on site in the Accounting Division, Metro Regional Center, 600 NE Grand Avenue, Portland, OR. If you so desire, please schedule your visit with Karla Lenox (503-797-1821) or Don Cox (503-797-1632) prior to arrival.
- B. **Due date.** Proposals are due XXXXXXXXXXXX, 2001 by 3 p.m., to the attention of Don Cox, Metro Accounting Services Division. Four hard copies should be delivered to the Accounting Services Division front desk at 600 NE Grand Avenue, Portland OR 97232. Proposals shall not be considered if received after 3:00 p.m., XXXXXXXXXXXX, 2001. Mail that arrives after that time and date is not acceptable.
- C. **Proposal presentation.** Professional accounting services proposals should not exceed ten (10) pages, exclusive of resumes. DO NOT submit proposals in electronic format (e.g., please do not submit via e-mail, diskette or CD).

Proposals must be printed double-sided on recycled-content paper (30% post-consumer), with no non-reusable or non-recyclable components such as wire bindings or plastic covers or dividers.
- D. **Requests for further information.** This Request for Proposals, along with draft application guidelines and standard Metro contract, represent the most definitive

statements Metro will make concerning the information upon which proposals are to be based. In evaluating proposals, Metro will not consider any verbal information it gives or receives, if that information is not addressed in this RFP, in other formal, written communications or in the proposal. All questions relating to this RFP should be addressed to Don Cox at 503.797.1632 or at coxd@metro.dst.or.us. (If you do not receive a response to your e-mail within 48 hours, please call.) Any questions that in the opinion of Metro warrant a written reply or RFP amendment will be furnished to all parties receiving this RFP. Questions and comments must be received by Metro no later than seven working days prior to the proposal submittal date. Questions and requests will not be addressed after 3 p.m., XXXXXXXXXX, 2001.

- E. Background check waiver.** All vendors are hereby advised that Metro may solicit and secure background information based upon the information, including references, provided in response to this RFP. By submission of a proposal all vendors agree to such activity and release Metro from all claims arising from such activity.
- F. Subcontractors.** In the event that any subcontracts are to be utilized in the performance of this agreement, the vendor's attention is directed to Metro Code provisions 2.04.100. Copies of that document are available from the Risk and Contracts Management Division of Administrative Services, Metro, Metro Center, 600 NE Grand Avenue, Portland OR 97232, or call 503.797.1816.

VII. Evaluation of Proposals

Proposal evaluations will be based on the following criteria, and will take into consideration the clarity and usefulness of any exceptions expressed by the vendor:

- ◆ **Work plan and methodology (30 percent)**
Vendor provides a thorough, reliable method and timeline for accomplishing project objectives in cooperation with Metro's staff. Work plan is clear and is responsive to the Request for Proposals and to Metro's needs.
- ◆ **Staffing and management (40 percent)**
Resumes of staff committed to Metro's project demonstrate skills and experience likely to produce competent, complete and high quality work.
- ◆ **Cost (30 percent)**
Proposed cost of services, including hourly rates, expenses, and estimated costs per task, fall within an acceptable, competitive range on the proposed work.

VIII. General Proposal/Contract Provisions

- A. Contract budget and timeline.** The amount available in this initial contract is \$35,000. Initial term of the contract will be three months. Metro and the vendor can agree to extend the contract.

- B. Contract type.** Successful vendors will be required to sign Metro's standard Personal Services contract. Vendors shall include in their proposals any exceptions they will take to the language therein. Any proposed exceptions shall be considered in evaluating proposals.
- C. Limitation and award.** This RFP does not commit Metro to the award of a contract, nor to pay any costs incurred in the preparation and submission of proposals in anticipation of a contract. Metro reserves the right to waive minor irregularities, accept or reject any or all proposals received as the result of this request, negotiate with all qualified sources, or to cancel all or part of this RFP.
- D. Billing procedures.** Vendors are informed that the billing procedures of the selected firm are subject to the review and prior approval of Metro before reimbursement of services can occur. Contractor's invoices shall include an itemized statement of the work done during the billing period, staff performing tasks, hourly rates or other basis, and loans/applications involved. Invoices will not be submitted more frequently than once a month. Metro will pay Contractor within 30 days of an approved invoice.
- E. Validity period and authority.** The proposal shall be considered valid for a period of at least sixty (60) days and shall contain a statement to that effect. The proposal shall contain the name, title, address and telephone number of an individual or individuals with authority to bind any company contacted during the period in which Metro is evaluating the proposal.
- F. Conflict of interest.** A vendor filing a proposal thereby certifies that no officer, agent or employee of Metro or Metro has a pecuniary interest in this proposal or has participated in contract negotiations on behalf of Metro; that the proposal is made in good faith without fraud, collusion or connection of any kind with any other vendor for the same call for proposals; the vendor is competing solely in its own behalf without connection with, or obligation to, any undisclosed person or firm.



METRO

SEP 27 2001

September 24, 2001

The Honorable David Bragdon
Presiding Officer
Metro Council
600 N.E. Grand Avenue
Portland, OR 97232-2736

Dear Presiding Officer Bragdon and Council Members:

I am forwarding the attached budget amendment to provide limited resources for implementing GASB Statement No. 34 because we have no other choice. I object to this because it is an unfunded mandate imposed by a board that is not directly accountable to an elected body.

GASB Statement No. 34 compliance is required in order to receive a clean audit opinion and in order to maintain a good bond rating. Therefore, I recommend passage of this ordinance.

Sincerely,

Mike Burton
Executive Officer

Cc: Pete Sandrock, Chief Operating Officer
Jennifer Sims, CFO/Director of Administrative Services

Agenda Item Number 8.1

Resolution No. 01-3113, For the Purpose of Approving Metro Capital Asset Management Policies.

Metro Council Meeting
Thursday, October 18, 2001
Metro Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF APPROVING) RESOLUTION NO. 01-3113
METRO CAPITAL ASSET MANAGEMENT) INTRODUCED BY COUNCILOR
POLICIES) BILL ATHERTON

WHEREAS, Metro facilities include capital assets with a total value of over \$375 million,
and

WHEREAS, the Council Presiding Officer established the System Performance Task Force
for the purpose of examining current practices related to the management of Metro's
capital assets,

WHEREAS, the task force determined that there is a need to establish a framework of
consistent policies to guide the planning and management of Metro's capital assets, and

WHEREAS, the adoption of capital asset management policies will demonstrate Metro's
commitment to sound fiscal and financial management, therefore

BE IT RESOLVED,

The Metro Council approves Exhibit A of this resolution, entitled "Capital Asset
Management Policies".

ADOPTED by the Metro Council this _____ day of _____ 2001

David Bragdon, Presiding Officer

ATTEST:

Approved as to Form

Recording Secretary

Daniel B. Cooper, General Council

Capital Asset Management Policies

The following policies establish the framework for Metro's overall capital asset planning and management. They provide guidance for current practices and a framework for evaluation of proposals for future projects. These policies also seek to improve Metro's financial stability by providing a consistent approach to fiscal strategy. Adopted financial policies show the credit rating industry and prospective investors (bond buyers) the agency's commitment to sound financial management and fiscal integrity. Adherence to adopted policies ensures the integrity and clarity of the financial planning process and can lead to improvement in bond ratings and lower cost of capital.

1. Metro shall operate and maintain its physical assets in a manner that protects the public investment and ensures achievement of their maximum useful life.

Ensuring the maximum useful life for public assets is a primary agency responsibility. Establishing clear policies and procedures for monitoring, maintaining, repairing and replacing essential components of facilities is central to good management practices. It is expected that each Metro department will have written policies and procedures that address:

- *Multi-year planning for renewal and replacement of facilities and their major components;*
- *Annual maintenance plans.*

2. Metro shall establish a Renewal & Replacement Reserve account for each operating fund responsible for major capital assets.

Ensuring that the public receives the maximum benefit for their investments in major facilities and equipment requires an ongoing financial commitment. A Renewal & Replacement Reserve should initially be established based on the value of the asset and consideration of known best asset management practices. Periodic condition assessments should identify both upcoming renewal and replacement projects and the need to adjust reserves to support future projects. If resources are not sufficient to fully fund the Reserve without program impacts, the Council will be consider alternatives during the annual budget process. Establishing and funding the Reserve demonstrates Metro's ongoing capacity and commitment to these public investments.

3. Metro shall prepare, adopt and update at least annually a five-year Capital Improvement Plan (CIP). The Plan will identify and set priorities for all major capital assets to be acquired or constructed by Metro. The first year of the adopted CIP shall be included in the Proposed Budget.

The primary method for Metro departments to fulfill the need for multi-year planning is the Capital Improvement Planning process. The CIP allows a comprehensive look at Metro's capital needs for both new facilities and renewal and replacement of existing ones, and allows the Council to make the necessary decisions to ensure financial resources match forecasted needs.

Capital Asset Management Policies

4. Capital improvement projects are defined as facility or equipment purchases or construction which results in a capitalized asset costing more than \$50,000 and having a useful (depreciable life) of five years or more. Also included are major maintenance projects of \$50,000 or more that have a useful life of at least five years.

A clear threshold ensures that the major needs are identified and incorporated in financial plans.

5. An assessment of each Metro facility will be conducted at least every five years. The report shall identify repairs needed in the coming five years to ensure the maximum useful life of the asset. This information shall be the basis for capital improvement planning for existing facilities and in determining the adequacy of the existing Renewal & Replacement Reserves.

A foundation step for capital planning is an understanding of the current conditions of Metro facilities. It is expected that Metro departments have a clear, documented process for assessing facility condition at least every five years. The assessment processes may range from formal, contracted engineering studies to in-house methods such as peer reviews. The assessment should identify renewal and replacement projects that should be done within the following five years. The Renewal & Replacement Reserve account should be evaluated and adjusted to reflect the greater of the average renewal & replacement project needs over the coming five years or 2% of the current facility replacement value.

6. The Capital Improvement Plan will identify adequate funding to support repair and replacement of deteriorating capital assets and avoid a significant unfunded liability from deferred maintenance.

Using the information provided by facility assessments, Metro departments should use the CIP process to identify the resources necessary to keep facilities in an adequate state of repair. In situations where financial resources force choices between programs and facility repair, the annual budget process should highlight these policy choices for Council action.

7. A five-year forecast of revenues and expenditures will be prepared in conjunction with the capital budgeting process. The forecast will include a discussion of major trends affecting Agency operations, incorporate the operating and capital impact of new projects, and determine available capacity to fully fund the Renewal & Replacement Reserve.

Incorporation of capital needs into agency five-year forecasts ensures that problem areas are identified early enough that action can be taken to ensure both the maintenance of Metro facilities and integrity of Metro services.

8. To the extent possible, improvement projects and major equipment purchases will be funded on a pay-as-you-go basis from existing or foreseeable revenue sources. Fund Balances above established reserve requirements may be used for one-time expenditures such as capital equipment or financing of capital improvements.

Preparing a CIP and incorporating it into five-year forecasts enables Metro to plan needed capital spending within foreseeable revenues. This minimizes the more

Capital Asset Management Policies

costly use of debt for capital financing and ensures renewal and replacement of facility components takes place without undue financial hardship to operations.

9. Debt (including capital leases) may only be used to finance capital, including land acquisition, not ongoing operations. Projects that are financed through debt must have a useful service life at least equal to the debt repayment period.

Because interest costs impact taxpayers and customers, debt financing should be utilized only for the creation or full replacement of major capital assets.

10. When choosing funding sources for capital items, every effort should be made to fund enterprise projects either with revenue bonds or self-liquidating general obligation bonds. For the purpose of funding non-enterprise projects other legally permissible funding sources, such as systems development charges should be considered.
11. Acquisition or construction of new facilities shall be done in accordance with Council adopted facility and/or master plans. Prior to approving the acquisition or construction of a new asset, Council shall be presented with an estimate of the full cost to operate and maintain the facility through its useful life and the plan for meeting these costs. At the time of approval, Council will determine and establish the Renewal & Replacement Reserve policy for the asset to ensure resources are adequate to meet future major maintenance needs.

New Metro facilities should be planned within the overall business and service objectives of the agency. To ensure that the public gains the maximum utility from the new facility or capital asset, Metro should identify the full cost of building and operating the facility throughout its useful life. Resources generated from its operation or other sources should be identified to meet these needs.

BUDGET COMMITTEE REPORT

CONSIDERATION OF RESOLUTION NO. 01-3113, FOR THE PURPOSE OF APPROVING METRO CAPITAL ASSET MANAGEMENT POLICIES

Date: October 18, 2001

Presented by: Councilor Atherton

Committee Recommendation: At its October 10, 2001, meeting, the Budget Committee voted 6-0 to recommend Council adoption of Resolution No. 01-3113. Voting in favor: Councilors Atherton, Bragdon, Burkholder, McLain, Monroe, Park. Voting against: None. Absent: Councilor Hosticka.

Background: John Houser, Metro Council Analyst, presented the staff report. He described the formation of the Systems Performance Task Force in early 2001, and noted that its charge was to evaluate approaches to capital asset management within Metro and return to Council with recommendations for necessary changes or improvements to the existing system.

He stated the Task Force, which began work in July, conducted comprehensive reviews of both departmental and other jurisdictional asset management programs, and determined that practices varied widely both internally and externally. The Task Force determined that the establishment of a set of capital asset management policies applicable agency-wide would be desirable to provide minimum standards and requirements for all Metro departments, and a basis against which Council could evaluate or review programs both agency-wide, and within individual departments.

The proposed policies draw upon existing practice, and also require that capital asset management needs be tied in fiscally with the agency's capital improvement plan. In addition, the policies require that all Metro facilities be assessed every five years, which could result in fiscal impact as potential asset renewal and replacement needs are identified.

Committee Issues/Discussion: There was none.

Key Public Testimony: There was none.

STAFF REPORT

CONSIDERATION OF RESOLUTION NO. 01-3113, FOR THE PURPOSE OF APPROVING METRO CAPITAL ASSET MANAGEMENT POLICIES

Date: October 2, 2001

Presented by: Councilor Atherton

Description

The proposed resolution would establish capital asset management policies. The proposed policies would address issues related to asset maintenance, planning and funding for asset renewal and replacement, the role and content of the Capital Improvement Plan in asset management, and the incorporation of capital needs into the five-year revenue and expenditures forecast.

Existing Law

Metro currently has no Code provisions or written policies related to the management of the agency's capital assets. During the Council's budget review process for the past two years concern has been raised related to the lack of comprehensive agency asset management policies. This discussion has focused the need for policies related to asset maintenance and renewal and replacement of assets. In response to this discussion, the Presiding Officer established a Systems Performance Task Force to review the differing departmental approaches to capital asset management and make recommendations to the Council.

Background and Discussion

The task force began its work in late July. The task force invited representatives from each Metro department to respond to a series of questions and present background information concerning how they manage their capital assets. Task force staff followed up these presentations with meetings with department staffs to gather additional more in-depth information on their asset management programs. The staff also reviewed asset management programs used by other jurisdictions. The task force found that the management systems used by the various Metro departments and by other jurisdictions vary greatly.

As a result of this review, the task force staff submitted a series of draft capital asset management policies. These policies will have three principal effects. First, they provide a general framework for capital asset management. In some cases, they simply place existing practice in writing. For example, one of the policies requires the preparation of a capital improvement plan. In other cases, they establish new policy, such as a requirement that each facility establish Renewal and Replacement Reserves.

Second, they provide minimum standards and requirements related to capital asset management that must be followed by all Metro departments. An example of such a requirement will be that all departments have an annual capital asset maintenance plan.

Third, by establishing these policies, the Council will establish written policies against which it can review the capital asset management programs of individual departments. The policies also

require additional fiscal information be included in the capital improvement plan and the budget that will give the Council a clearer picture of the total capital needs of the agency.

Fiscal Impact

There are several potential fiscal impacts associated with the proposed resolution. The preparation of additional information for the capital improvement plan and proposed budget and the preparation of annual asset maintenance plan may have a small fiscal impact on each department. This effect may vary among the departments depending on the nature of their current asset management programs.

The policies also require that an assessment of all Metro facilities be conducted every five years. Departments would have the flexibility to establish their own written procedures for conducting such assessments. If a department chooses or is required by bond covenants to use an outside vendor, the cost of such an outside review would need to be appropriated through the annual budget process. Departments also could choose a lower cost alternative such as a peer review process.

The assessment process should result in estimates of potential asset renewal and replacement needs for each department. This will give the Council the opportunity to better assess and prioritize the capital and operational needs. Such a prioritization process may result in a shift in the appropriation of funds within individual departments.